

D

0

0

0

6

8

0

4

9

5

9

In Memoriam.

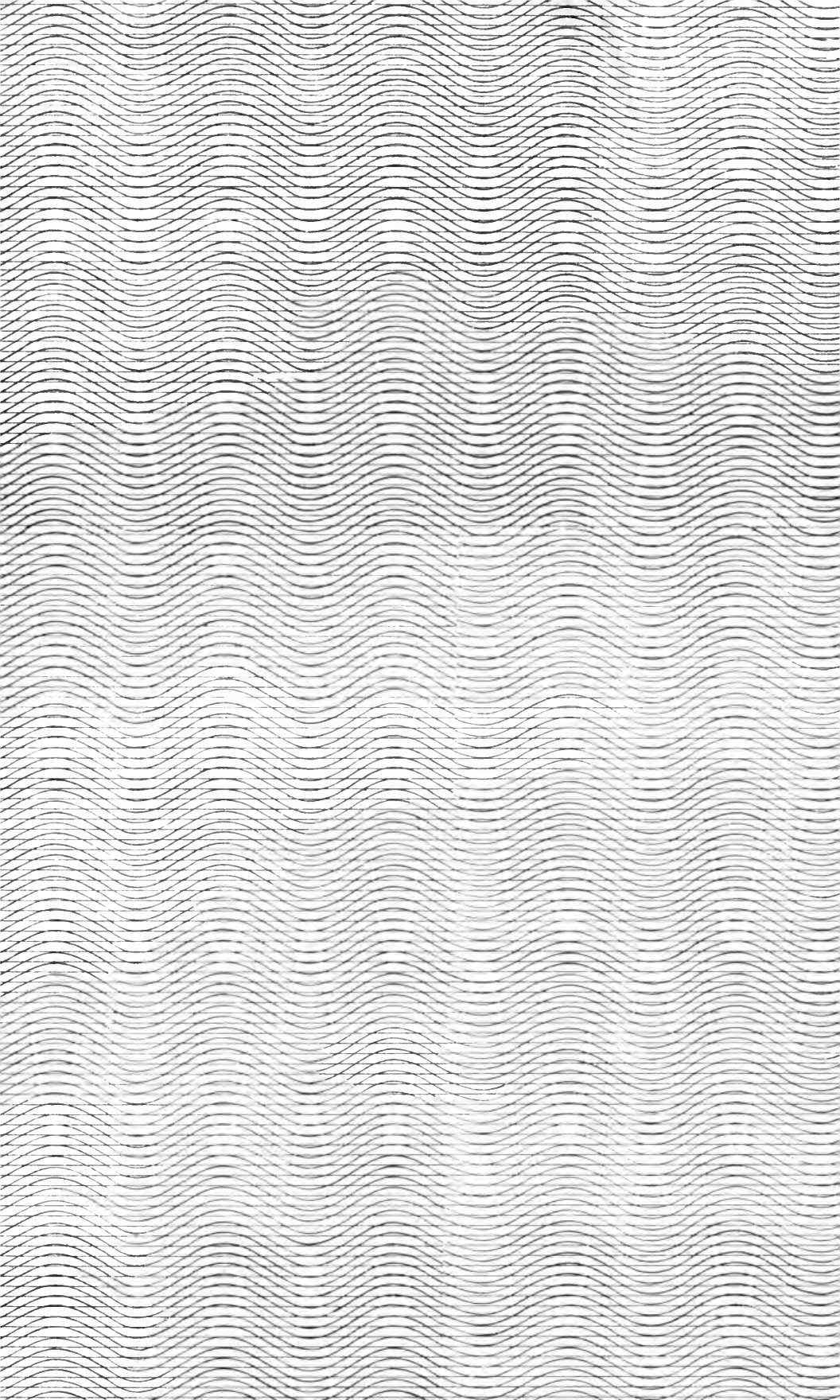
James Overton Broadhead.

Died

August 7, 1898.



THE LIBRARY
OF
THE UNIVERSITY
OF CALIFORNIA
LOS ANGELES







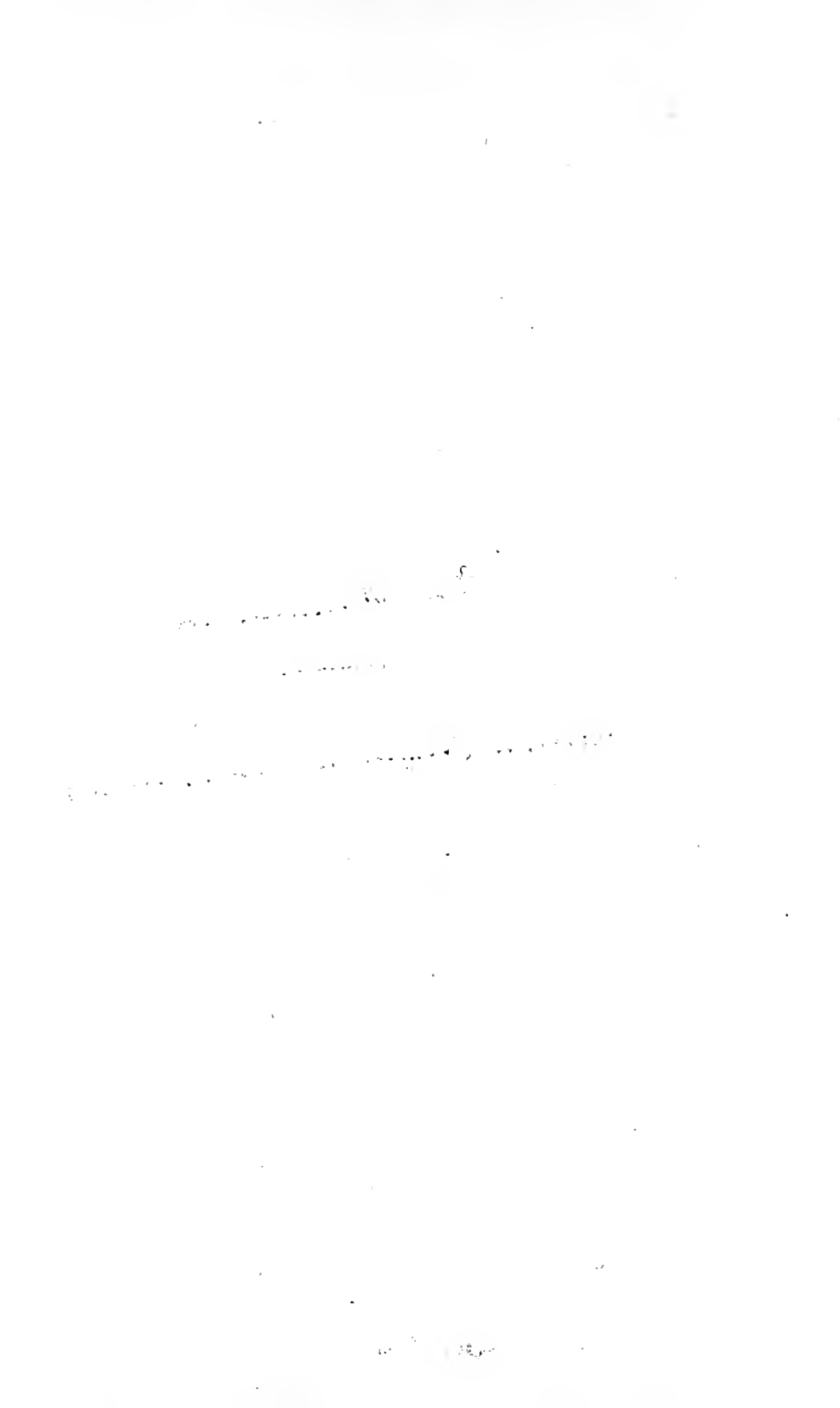


James Otis Broadhead

In Memoriam.

James Overton Broadhead.

Died
August 7, 1898.



378514

CONTENTS.

INTRODUCTION	3
PROCEEDINGS OF THE ST. LOUIS BAR	5
ADJOURNED MEETING	6
MEMORIAL OF THE ST. LOUIS BAR	7
PROCEEDINGS OF THE MEMORIAL MEETING IN PIKE COUNTY	19
ADDRESS OF MR. FAGG	20
RESOLUTIONS OF PIKE COUNTY MEETING	28
ADDRESS OF MR. KENT	29
ADDRESS OF MR. CAMPBELL	57
ADDRESS OF MR. HAGERMAN	59
RESPONSE OF JUDGE ADAMS	70
ADDRESS OF MR. FINKELNBURG	73
RESPONSE OF JUDGE THAYER	76
ADDRESS OF MR. HITCHCOCK	79
RESPONSE OF CHIEF JUSTICE GANTT	85
ADDRESS OF MR. KRUM	87
MEMORIAL OF THE LOYAL LEGION	91
MEMORIAL OF THE VIRGINIA SOCIETY	97
MEMORIAL OF THE AMERICAN BAR ASSOCIATION	101

INTRODUCTION.

IN presenting this publication to those by whose generosity it is made, and who have assigned to us the labor, which is one of love in editing it, we feel that a word of explanation is necessary.

We have not thought it wise to preface this Memorial volume with a biographical sketch of Colonel Broadhead, since the various addresses and resolutions which it contains tell the whole story of his life. Its purpose is to preserve in some enduring shape a record of what has been said and done as a precious treasure for those who knew the man, and as a legacy for those who are to come after us.

Repetitions of the same sentiment and of comment upon the same qualities will be found in many of these proceedings; this is due to the fact that he was a person of such marked individuality that no one could speak or write of him and leave unmentioned his striking characteristics. The many traits that distinguished his professional and public life were supplemented by a simplicity of character that gave a charm to his personality, whilst—

“Affection, kindness and the sweet offices
Of love and duty were to him as needful,
As his daily bread.”

Fortunate those who were associated with his professional and public life and enjoyed his personal friendship !

“Beate vixisse videar, quia cum Scipione vixerim.”

HENRY T. KENT.

JAMES L. BLAIR.

ST. LOUIS, March 15th, 1899.

PROCEEDINGS OF THE BAR.

A MEETING of the St. Louis Bar, in honor of the memory of the Hon. James O. Broadhead, was held at Court Room No. 4, of the St. Louis Circuit Court, on August 9, 1898, to take appropriate action upon his death.

On motion of Truman A. Post, Esq., Col. D. P. Dyer was chosen chairman and Heber W. Adams as secretary.

Col. Dyer delivered a feeling and eloquent address covering a period of forty years, during which he had known Col. Broadhead.

On motion of Mr. Henry T. Kent, the chairman appointed a committee of nine to draft fitting resolutions. The committee was composed of Henry T. Kent, Truman A. Post, Fred W. Lehmann, James L. Blair, John W. Noble, Herman A. Haeussler, John H. Overall, Amos R. Taylor and Malvin L. Gray.

In view of Col. Broadhead's career at the bar and in public life, the committee asked for time to prepare an appropriate memorial, which was granted.

AT an adjourned meeting of the St. Louis Bar, held in Court Room No. 4, on Saturday, November 12, 1898, for the purpose of receiving the report of the committee appointed to prepare suitable resolutions on the death of Col. James O. Broadhead, the committee reported that their memorial had been prepared by Mr. James L. Blair, one of its members, and was ready for presentation ; at the request of the Chairman, Mr. Blair then read the following memorial :

MEMORIAL
OF
JAMES OVERTON BROADHEAD.

YOUR committee conceives it to be its duty to incorporate in this memorial some of the principal events of the life of our distinguished brother as a fitting, and indeed a necessary preliminary to a just estimate and expression of the worth of one who has stood so high in our profession, and in the esteem of his fellow-citizens.

Born at Charlottesville, Albemarle County, Virginia, on the 29th day of May, 1819, Col. Broadhead had just completed his seventy-ninth year when, on the 7th day of August, 1898, after a long illness, he departed this life. At the age of eighteen, after a year spent at the University of Virginia, he removed to Pike County, Missouri, where he was admitted to the bar in the year 1842. In 1845 he was a delegate to the State Constitutional Convention; in 1847 a member of the State House of Representatives from Pike County, a State Senator in 1851, a member of the Committee of Safety in St. Louis in 1861, and in the same year a delegate to the State Convention which assembled to determine upon the course of the State on the issue of union or secession. Appointed to be District Attorney of the United States during this year he

soon resigned his office in order to discharge more pressing public duties growing out of the exigencies of the war. In 1863 he was commissioned Lieutenant Colonel of Volunteers, by President Lincoln, and immediately appointed Provost Marshal General of the Military Department of Missouri.

Elected a delegate to the Constitutional Convention of 1875, he labored incessantly in the formation of the constitution adopted in that year. He was retained as special counsel for the government in the famous "Whisky Ring" cases in St. Louis in 1876, and in 1878 was made president of the American Bar Association. In the year 1882 he was elected to Congress and served with distinction on the Judiciary Committee of the House during his term, declining a renomination. President Cleveland, in 1885, appointed him Special Commissioner to make examination with reference to the "French Spoliation Claims," in pursuance of which duty he spent several months in France, examining the government archives and upon his report Congress took the first action toward making provision for the payment to the descendants of those whose claims had been ignored for nearly a century. Soon after the completion of this duty, he was appointed Minister to Switzerland, which office he held until about two years before his death.

In 1859 he came to St. Louis where he formed a law partnership with the late Fidelio C. Sharp, which continued till the death of the latter in 1875. Subsequently he was associated with John H. Overall, W. F. Broadhead, A. W. Slayback, Herman A. Haeussler and C. S. Broadhead ; with the last two his association continued until the time of his death.

From almost the day of his admission to the bar in 1842, with the exception of the brief intervals caused by his absences abroad, he was continuously engaged in the practice of the

law, and was concerned in much of the great litigation of this city and State, as well as in many important controversies in the Federal Supreme Court.

It appears from this outline that both the public and professional careers of Colonel Broadhead were unusually long and active, touching great affairs and intimately connected with some of the most momentous crises in the history of our State and national government. The least that can be said of him is that he was fully adequate to every occasion, however trying, and that in many of his forensic efforts and public acts he was conspicuously great.

In analyzing the careers of men we are oftentimes confronted by anomalous and seemingly contradictory results. In some we find talents and energy in combination, such as would ordinarily assure success, followed by failure. In others we find mediocre ability rewarded by the highest distinction ; and we are forced to the conclusion that there is no "itinerary of the road to fame ;" her mantle falls upon those who possess that assemblage of faculties, not one of which need necessarily be great, so adapted to environment that, working in harmony, they together secure the prize for which we all strive. There is, however, one quality whose presence insures, and whose absence makes impossible, true greatness, and that is character. In scrutinizing the career of our friend we find that while gifted with many intellectual qualities above the average of men, this one salient element stands out foremost in his composition. In his integrity, firm as the very foundations of truth, he was without "variableness nor shadow of turning." In a public address he once used these words : "No man without an upright mind, and no man who has not preserved his integrity, has ever died leaving the reputation of a great lawyer."

To this standard his whole life was adjusted and the reputation he leaves perfectly illustrates the truth of his maxim.

In the profession of the law Colonel Broadhead stood easily in the front rank, not only in this State, but in the nation ; indeed, of all our State bar, he probably enjoyed the widest national reputation, for his public career served to attract attention to his notable ability as a lawyer, as is shown by his constant employment in cases of great magnitude, in the Federal Courts, arising outside of the State. His legal education was thorough, and, notwithstanding his active participation in public affairs, his studies were never intermitted. The character of his mind was such, that it seemed to be able to select the salient points of a controversy or a reported case, to eliminate the immaterial and to concentrate upon the main issue. In the trial of causes he gave little attention to what might be called the minutiae of preparation. He seemed to care but little for memoranda, for the orderly arrangement of papers and all that multitude of details which occupy so much of the attention of the ordinary practitioner. He seemed to the casual observer to be rather neglectful in these matters, but when the trial was on he was never found unprepared. Somewhat slow in his movements he gave the impression of not being alert in his mental processes ; but no man who met him in a professional contest ever finished it without being profoundly impressed with his acuteness of perception, his unfailing readiness and his extraordinary resourcefulness. His mind was cast in a mould which discards those mere technicalities that distinguish the legal mechanic from the great lawyer. It possessed that clear discernment which classified the issues according to the underlying principles of right and justice, and which, with the aid of a memory

singularly tenacious and accurate, enabled him in a time inconceivably short, to harmonize principle with precedent in the construction of arguments, persuasive, logical, conclusive. It seemed to one opposed to him for the first time that his indifference made him an easy antagonist, but no man ever emerged from such a controversy without feeling that upon every important point Col. Broadhead was fully prepared and able to support his position with the clearest application of established principle, coupled with every precedent which the history of the law could supply.

It cannot be said that Col. Broadhead was versatile in the law ; he had not in such marked degree as some other great lawyers the faculty of special fitness in numerous departments of the practice ; yet in no branch of the law, however different from those which he specially preferred, did he ever show unfitness. The intellectual superiority which made him great in some, negatived the possibility of weakness in any. His preference and the trend of his mental activity was in the direction of the more profound legal questions such as constitutional law. His familiarity with the history of jurisprudence and the philosophy which underlies and permeates that greatest of all sciences, specially qualified him for the solution of those broader questions involved in the construction of the written charters of the States and the nation. In the famous case of the late corporation of the Church of Jesus Christ of Latter Day Saints, these qualities appeared in special prominence. In this case he held a brief for the Mormon Church, which was contending against the attempt of the United States to invade the property rights of a religious corporation by escheating its lands to the government. His argument in this case rises to heights rarely equalled in the profession and stamps him as a constitutional

lawyer of surpassing ability. An incident which occurred in the argument of that case before the Supreme Court of the United States illustrates both the power of his argument and the esteem in which he was held by that tribunal. In the course of the argument this colloquy occurred: The Court: "Conceding that that part of the statute is valid which declares this corporation called 'The Church of Latter Day Saints' is dissolved, what do you say becomes of it?" Mr. Broadhead: "That is the question I am undertaking to discuss." The Court: "You are stating these leading authorities. I would like to know what your view is; where you are coming to? What do *you* say?"

We believe there can be no higher encomium given to a member of our profession than that the highest court of the land, in a case involving so great a question, should place itself upon record as desiring, in addition to leading authorities, the individual opinion of counsel on the vital issue of the case.

In the famous "Express" cases the question involved was one as to the obligation of common carriers. The issues were most important and far reaching in their scope; the controversy bitter. Amongst his opponents were such men as Senator Edmunds, Mr. Seward and Ex-Justice Campbell, but in the final hearing before the Supreme Court of the United States, which was concluded by Col. Broadhead in an argument of nearly two days' duration, he exhibited a grasp of the issues, a convincing power which carried the day and added another to his long list of forensic successes. It was his own opinion and that of many others that, considering the commanding ability of his adversaries, and the fact that several members of the court had on the circuit expressed views opposed to his contention, his victory in this case was the greatest triumph of his professional life.

It is undoubtedly true that much of his professional success was due to the fact that every tribunal before which he appeared became immediately impressed with his perfect candor and honesty. His face, his manner, his whole bearing throughout the case carried a conviction of his single minded purpose to present the issues with absolute fairness ; that he came before the court with profound convictions and with the intention of performing the most exalted function of the lawyer by aiding the court in sifting out the very truth and justice of the matter in dispute.

The public career of Col. Broadhead was characterized throughout by the highest qualities of patriotic citizenship. He came of a stock which had borne arms in defense of liberty in the Revolutionary war, and in the war of 1812, and he imbibed in his youth and early manhood the spirit which actuated the fathers of the Republic. While too young to have had any personal intercourse with Jefferson, he was reared in a locality where the best qualities of that great man had impressed themselves upon the thought and conduct of all those with whom he came in contact. He grew to manhood in an atmosphere created by eminent statesmen and permeated by a love of country, a patriotic devotion to public duty, and a full recognition of the obligation which rests upon the citizen to give his services for the public good. His personal acquaintance and relations with Mr. Madison served to foster still further these virtues, and thus one of the most prominent characteristics of his life was the unquestioned readiness with which he devoted himself to the solution of every public question of magnitude, and the intrepid courage with which he labored throughout his whole life for the right, as he conceived it, at whatever cost to himself. In the great national crisis of 1861 he was eminent in his strenuous advocacy of the Union at any cost.

His argument before the convention which met in this city in 1861, in support of the right of the Federal Government to call out the State militia for the purpose of suppressing insurrection, was as able as it was courageous, and his administration of the difficult and delicate duties of Provost Marshal was marked by a fidelity to duty, and yet a kindliness which signalized the patriotism of the citizen while it gave earnest of the gentleness of his nature ; so that whilst performing a task under circumstances where harshness was almost a necessity, he retained the affectionate regard of those against whom he was obliged to enforce the severe penalties imposed by the Federal Government. His services in the State Convention which established the provisional government in 1861, were notable. The situation was most difficult. The State government was in confusion ; the people were divided in sentiment and sympathy on the great question of the day ; intense bitterness, partisan rancor and violence were universal. With a great patience, an unwearying tolerance of the opinions of others, and with an eye single to the patriotic purpose of preserving the Union, he labored in season and out of season, giving unsparingly of his time, his talents and his means till at length order succeeded anarchy and perfect success rewarded his devotion.

The war being over he was one of those who believed that amnesty was not a mere word ; he threw away the sword and strove mightily to restore to his former adversaries the civil rights and privileges of which partisan bitterness had deprived them.

In the Forty-eighth Congress, as a member of the Judiciary Committee, he gave to National Legislation the same able and conscientious service which was the habit of his life. He impressed himself upon his associates as a man devoid of any

purpose save that only of an upright, zealous discharge of duty. In great measure he contributed to the correct solution of the weighty questions which came before that body.

In the Constitutional Conventions of 1845 and 1875 Col. Broadhead's talents were of great value. As in the interpretation of organic law lay his greatest power, so in the creation of those great charters his special ability shone forth. In the grave questions which came before those conventions his voice was ever for conservatism and the strictest application of the great principles which underlie our form of government; and his arguments were replete with illustrations drawn from the wise utterances of the founders of the nation when they passed through that unknown and troubled sea which lay between them and the institution of our Republic. The spirit of fairness which ever pervaded his mind and his devotion to the interests of the State of his adoption, aided in great measure, if it did not control, the limitations imposed by those instruments on the aggressions of corporate interests against the rights of the people, and the unwise and illiberal efforts of those who would have impeded the progress of the State by enactments restricting the rewards which are justly due to capital honestly invested. His breadth of view, his full comprehension of the operation of economic laws, his thorough understanding of the genius of the people, their needs, their weakness and their strength, his candor, his known integrity and his high professional standing gave him a weight in these councils and a power for good which have been of incalculable benefit to this State.

His last appearance in political life was in the memorable campaign of 1896. Though it pained him deeply to sever his connection with his old political associates, he did not hesitate to follow his convictions and identify himself with the National

Democratic party, in whose convention at Indianapolis he was one of the most prominent figures. Whilst some may not agree with his conclusions, his disinterested advocacy of what he believed to be right must challenge the admiration of all.

The personal characteristics of Col. Broadhead were such as to merit special notice. There was in him a simplicity, an utter absence of guile such as is rarely seen in one whose life has been spent in legal and public controversies, and who has been in touch with affairs so many and so varied. With a noble disdain of the meannesses of life, he combined a tolerance of the errors and weaknesses of others which made him a constant target for the designing and an ever ready help to the unfortunate. It seemed impossible for him to deny any appeal from the distressed, irrespective of the merit of the application. Indifferent to the glitter of wealth and the allurements of power, he gave freely, too freely, indeed, of his earnings, and died comparatively a poor man. Ostentation was impossible to him, and his modest appreciation of his own ability, his repugnance to asserting any claim for reward for his own public services, were notable qualities of the man in a day when the rule is so conspicuously otherwise. Though undemonstrative in manner, any man who had ever known him carried throughout life affectionate remembrances either of some kindness done or some assurance, which needed no spoken word, that no appeal to him would ever go unanswered. His controversies engendered no rancor; the elevation of his character and his unquestioned sincerity carried assurance to every opponent, however sharp the contest, that the man had no quarrel save with wrong, that the battle was one of intellect and wholly above the plane of personal animosity. He accepted his defeats, which were few, with an equal mind, and with the feeling that the tribunal which decided against

him might have erred in judgment, but was incapable of wrong doing ; and he bore his triumphs, which were many, without undue elation and in such spirit of modesty and with such kindly consideration as left no sting in the bosom of his adversary.

Col. Broadhead possessed a rare and discriminating taste in literature and his mind was stored with the beauties of the English classics. His legal arguments and public addresses are full of evidences of this ; for whilst the chief merits of his style are simplicity and perspicuousness, the irresistible eloquence of facts, yet it abounds with illustrations of a high order of literary learning and skill.

It is impossible to sum up in a few words a character and career such as this. If we say that his nature was at once simple, sincere, dignified, noble and lovable ; that as a lawyer he deservedly ranked as high as any at the bar of this State, possessed of some qualities excelling any of his contemporaries, and of a professional stature surpassed by few in the nation ; that as a public man he was a polemic and a statesman of the foremost order ; and that as a citizen he was one of the purest patriots in our history, we should still fall short of completeness ; for there was that about him which cannot be pictured in words ; an indefinable personal quality which affected all who knew him with unbounded confidence in his character and capacity and united him to all with whom he came in contact with ties of enduring affection and esteem. And to this must be added that he was of a type, now unfortunately too rare, which realizes the highest duty of our profession ; the type which accepts and executes the trusts imposed upon the lawyer by the requirements of civilization :—that he shall frame the organic law of the land, aid in its administration, treasure the wise precedents of the past for guidance in the future, evolve and shape the polity of the Republic, and give

freely of his time and his skill to the conservation of her institutions ; the type of Hamilton, Henry, Marshall ; the men who laid the foundations of the commonwealth, and the emulation of whose virtues will alone perpetuate her greatness!

HENRY T. KENT, Chairman.
JAMES L. BLAIR,
JOHN W. NOBLE,
MELVIN L. GRAY,
FREDERICK W. LEHMANN,
HERMAN A. HAEUSSLER,
TRUMAN A. POST,
JOHN H. OVERALL,
AMOS R. TAYLOR.

On motion of Mr. Hitchcock, the memorial as presented was adopted by the bar.

On motion the chair appointed Hon. G. A. Finkelnburg to present the memorial to the United States Circuit Court of Appeals, the Hon. James Hageman to the United States Circuit Court, Hon. Henry Hitchcock to the Supreme Court of Missouri, Given Campbell to the Missouri Court of Appeals, and Judge Chester H. Krum to the St. Louis Circuit Courts.

The meeting then adjourned.

PROCEEDINGS
OF
MEMORIAL MEETING IN PIKE COUNTY,
MISSOURI.

A COMMITTEE OF THE BAR and prominent citizens of Pike County called a public meeting, to be held at Bowling Green at the opening of the Circuit Court, on Monday, November 28, 1898, to take appropriate action upon the death of the Hon. James O. Broadhead.

The meeting was largely attended and it was said by old residents that no such representative gathering had ever been seen in the county. The deep feeling that pervaded the court room and the moist eyes gave convincing evidence of how dear the memory of Col. Broadhead was to the hearts of the people of the county in which he began his professional and public careers amongst whom he lived for so many years.

The Hon. David A. Ball called the meeting to order, and nominated Hon. T. J. C. Fagg for chairman. In addition to the proceedings printed below, Ex-Governor R. A. Campbell and Colonel Rufus E. Anderson, made feeling and eloquent addresses which have not been furnished the committee and unfortunately do not appear.

In assuming the chair, Judge Fagg spoke as follows:

JUDGE FAGG'S ADDRESS.

LADIES AND GENTLEMEN :—

It will not be deemed out of place, I hope, for me to give from personal recollection some of the incidents connected with the life of Col. Broadhead, while he was a citizen of Pike County.

He was born and reared on a farm near Charlottesville, Albemarle County, in the State of Virginia. His birthplace was in that beautiful Piedmont country that is overlooked by Monticello, the famous mountain home of Thomas Jefferson. The sunlight of Heaven has never fallen upon a spot more favored in soil, climate and population than this.

From the front door of Mr. Jefferson's mansion there is an uninterrupted view almost to the shore of the Atlantic ocean. A short distance to the westward is the imposing chain of mountains called the Blue Ridge. Highly cultivated farms and stately mansions are scattered over the broad plateau at its base, and the University of Virginia, founded by Mr. Jefferson, and the "child of his love," stands in full view near the town of Charlottesville.

For the period of time extending back almost to colonial days, the region covered by this view has boasted of a population celebrated for intellectual culture and refinement and for homes in which the warmest and most cordial hospitality have always been dispensed. Such were the surroundings and associations of my friend's boyhood days.

I came to this county in 1836, but he did not reach the State for three or four years afterwards. Close neighbors as we had been in the State of Virginia, however, I never saw him until we met in the town of Bowling Green, in September of 1843. I was then just beginning the study of law, while he

for little more than a year had been a resident of the town, his time being devoted chiefly to waiting and watching for business.

The practice of law was rather a small affair in those days. There were no corporations to sue for damages, divorces were very rare, and the chief business of the courts consisted in actions for the collections of debts, supplemented by a few suits in ejectment. The young lawyer who was not thoroughly educated in his profession or who was unskilled in the art of pleading, was at a great disadvantage in the trial of causes in court.

The old forms of assumpsit, replevin, detinue, trover and case were strictly adhered to, and woe to the novice who should go into court simply to find that his proof would not meet his allegations. With a good cause and the law and justice clearly on his side he might nevertheless be thrown out of court on a mere technicality. No man was better armed and equipped to meet these difficulties than my friend, Col. Broadhead.

He had been thoroughly educated and trained in classic schools and the University of Virginia. He had the sage counsel of and advice of such lawyers as Edward Bates, and he became a candidate for practice with the most emphatic endorsement as to his learning and ability, by the most eminent members of the Bar in the State. These advantages gave him a good start in professional life and he rapidly secured a practice that his ability and learning enabled him to retain during his stay in the county.

Very early in his career he met the same temptation that has lured so many men from the straight line of professional duties into the vexatious uncertainties and hazards of political life.

In 1845 he and the Hon. Ezra Hunt, then Judge of the Third Judicial Circuit of Missouri, were elected as delegates to

the Constitutional Convention of that year, from the counties of Ralls and Pike. This was not exactly a political office, and yet by a sort of tacit understanding between the great political parties—Whig and Democratic—Judge Hunt was recognized as the Democratic candidate and Broadhead the Whig candidate. The work of that convention was not approved by the people, and yet it had emanated from the best and ablest men in the State. My friend Broadhead had met for the first time the best lawyers and most distinguished politicians of the State. He and I were partners at that time in the practice of law, and I shall never forget the impression that was made upon him by his contact with these men. To him the routine of professional life became dull and unattractive. The field of politics was broader and more inviting and the opportunities for distinction greater in number.

In the spring of 1846 he moved from Bowling Green to Louisiana and opened a law office in that town. Soon afterwards he became the candidate of the Whig party for a seat in the lower branch of the Legislature; Pike County being then entitled only to one member. His Democratic opponent was Nicholas P. Minor, who was also a native of Albermarle County, Virginia, his birthplace being just outside the limits of the town of Charlottesville.

After a most spirited contest Broadhead was elected by a majority of sixty votes. Up to the year 1840 party lines had not been so strictly drawn as they were afterwards. There had been a very large independent element in the country, chiefly among a class designated as "old settlers." In those days the fate of many a candidate depended upon the length of time he had resided in the county. But this was a new era in politics. In the ten years preceding, the country had rapidly increased in population and the dominion of the "old settler"

was passing away. The "new comer" and the young man began to realize that they had some chance for political preferment. I shall never forget that contest. Minor was my personal as well as political friend, and up to the time of his removal to Louisiana, Broadhead was my partner, as well as a very warm personal friend. The race was spirited and well contested from beginning to end. Col. Broadhead served his term in the Legislature with great credit to himself, and at the end of two years determined to devote himself exclusively to the duties of his profession. Up to the time of his removal in 1859 to the City of St. Louis, he was a permanent resident of the town of Bowling Green.

The result of the war with Mexico, which was concluded by a treaty in May, 1848, gave us an immense addition of territory extending from the western boundaries of Texas and Arkansas to the Pacific ocean.

The year 1850 witnessed the commencement in earnest of the fiercest and most bitter political excitement the country had ever known up to that time. I do not propose to discuss any of the questions connected with that period farther than to say that they naturally grew out of this large acquisition of territory, and the immense amount of immigration that was pouring into the whole territory from the Missouri river to the Pacific ocean.

It was a time that moved and agitated the whole country to the profoundest depths. The war with Mexico, the immense addition of territory to the public domain, the discovery of gold in California, and the rapid influx of population to that broad extent of territory, had excited the attention and interest of the people in every part of the United States. A time had been reached when all men were politicians and no man could remain indifferent to the results.

Broadhead was again a candidate for a political office. This time he was a candidate for the State Senate, the district being composed of the counties of Ralls and Pike. His opponent was Capt. Wm. O. Loffland, who during the Mexican war had commanded a company raised partly in his own county of Ralls and partly in Pike. His war record and military fame, however, could not save him from defeat. Broadhead was elected after a bitter and hard-fought canvass, and served out his term of four years with great credit and ability. I know whereof I speak in characterizing this contest as a bitter one. I was in it myself, giving and taking blows as best I could. I mention this simply for the purpose of saying that I had the best opportunity that could have been afforded me to test fully the mental and moral worth of the man whose life and public services we commemorate to-day.

In the formation of his political opinions he was not the mere blind follower of any leader. He followed the leading of his own conscientious convictions, and had decision of character and moral courage sufficient to differ with his own party whenever he believed it was in the wrong. Such a mind as his can never be enslaved. As a speaker he was always forcible and convincing. There were men who excelled him in the graces of elocution, and who had greater force as advocates at the bar and in the political arena, but few equaled him in his persuasive power of reasoning.

There was a coincidence connected with the canvass of 1850 I cannot refrain from alluding to. Peter Carr and myself were opposing candidates for the Lower House, Broadhead for the Senate, and N. P. Minor was doing most of the political work for the only Democratic newspaper of the county, and all were from the town of Charlottesville, Va., or its immediate vicinity. We had all been reared and educated under the

shadow of Monticello, and yet were not in accord upon the political questions that were then being discussed with so much bitterness of feeling.

In 1854 he was again a candidate for a seat in the lower branch of the Legislature. Pike was then entitled to two members, as it had been from 1850. Broadhead was the only Whig candidate and was easily defeated by a system of swapping familiar to all political managers. E. C. Murry and Dr. W. W. Freeman, of Spencersburgh, were the successful candidates. The latter for some unexplained reason resigned during the fall, and I was elected at a special election held in the month of December following to fill the vacancy.

I mention this fact solely for the purpose of making another statement. At the Senatorial election by the Legislature held in the winter 1854-55, I had the pleasure and great satisfaction of casting my vote for James O. Broadhead for a seat in the United States Senate.

I have never entertained a solitary feeling of regret for that act. We had been on terms of the closest intimacy from the time of our first acquaintance. We had fought side by side in one of the bitterest political contests that had ever taken place in the county of Pike. We were in full accord in our views upon the great issues that divided the political parties of the day. But above all and beyond all he was a man eminently fitted for the position by reason of his intellectual ability and moral worth. He would have been a fit successor to Missouri's great Senator, Thomas H. Benton.

For some years before he left the county, Col. Broadhead practiced law in partnership with Judge Ezra Hunt, but he never mingled in political strife after the canvass of 1854. In the seventeen years of his residence in this county, he was an active participant in all the great legal battles that were fought

in the courts of justice. His prominence as an advocate in the jury trials of the day was not as marked as some others, but for learning and ability he was the peer of any man in the old Third Judicial Circuit.

There was a reserve power in his nature that could only be brought out fully when he was called upon to grapple with the most difficult questions of law and fact.

Who can tell the power of such a man for good in the community in which he lived? Who can tell the extent of his influence in shaping the opinions of men upon the great questions of constitutional law and public policy that agitated the country during the period of his professional life? These are questions that cannot be answered. Their full solution can only appear in the final revelation of all things. But the impress of Colonel Broadhead's character was as marked and as potent for good in social as well as in his professional and public life. Uncontaminated by the vices and immoralities of the times in which he lived, with a well cultivated mind and a kind and affable nature, no man held a higher position in the social circle than he. I go back in memory to those days and their associations with a personal pleasure and satisfaction that no other recollections in life can bring to me. I was myself an unimportant member of that circle and have a personal knowledge of what I say.

On the 13th day of May, 1847, he was united in marriage to Miss Mary S. Dorsey, daughter of Col. Edward W. Dorsey, who resided some six or eight miles southeast of Bowling Green.

Mrs. Broadhead was a sister of Mrs. Porter, wife of Judge Gilchrist Porter, the man with whom I studied law and at whose house I lived for some time during my stay in that town. But that circle has long since been broken and its links

scattered by the hand of death. One by one they have gone to the undisturbed slumber of the grave. One by one their places have been filled by others, and in a very brief space of time we shall all pass away and be forgotten. It would be impossible to tell you how lonely and desolate I feel to-day in calling up the memories of the last fifty years or more.

I can never forget the names and faces of the men who in those days were habitually grouped about the bench and bar of the Pike Circuit Court. There was Wm. M. Campbell, of St. Charles County, Carty Wells, William Porter and George W. Houston, of Lincoln County, Alfred W. Lamb, of Ralls County, Thomas J. Anderson, Uriel Wright, Samuel T. Glover and John D. S. Dryden, of Marion County, and Gilchrist Porter, Aylette H. Buckner, James O. Broadhead, George W. Buckner, John B. Henderson and Nicholas P. Minor of Pike. General Henderson and myself are the only survivors of this long list of men who were actively engaged in the business of the courts in those days. He has long since left the State, and I stand here, solitary and alone, with these memories crowding themselves upon me and realizing the fact that my life will soon be a thing of the past. Very few of its hopes and dreams have been realized and even the memory of its small achievements will soon be blotted out. I realize now as never before, the truth of all that has ever been said about the insignificance and vanity of human life.

“What shadows we are, what shadows we pursue.”

RESOLUTIONS BY JUDGE DAVID L. CALDWELL.

The following resolutions were offered by Judge David L. Caldwell and were unanimously adopted :

First. That the death of Col. Broadhead is a source of grief and the most profound regret to all the people of the county.

Second. That we are proud of the fact that for so many years he was a citizen of the county, that he was a distinguished member of the bar and for a large portion of time, the faithful public servant and representative of our people in the State Legislature.

Third. That we not only recognize the fact that he was a lawyer of eminent ability and distinguished in legislative councils of the State and nation, but that everywhere and under all circumstances he was an honest man and a courteous gentleman.

Fourth. That the death of such a man is a loss to the nation, as well as to the State and community in which he lived and labored for so many years.

Fifth. That we tender to Mrs. Broadhead and to each member of the family our sympathies as well as assurances of the most profound respect and good wishes.

Sixth. That a copy of the foregoing preamble and resolutions be forwarded to Mrs. Broadhead by the secretary, and that they be published by the various newspapers in the county.

The chair then introduced Henry T. Kent, Esq., of St. Louis, who had been invited to deliver the formal address of the occasion.

ADDRESS OF HENRY T. KENT, ESQ., OF THE ST. LOUIS BAR.

MR. CHAIRMAN, LADIES AND GENTLEMEN:—

It was a perfect summer afternoon on the 9th of August last, as a group of sorrowing friends in Bellefontaine Cemetery stood around a new-made grave. It was hid from view by floral tributes, the evidence of love and affection for the dead, the most marked being a broken column upon the base of which was woven in blue immortelles the words "Pike County's Noblest Son."

To do honor to that son, to testify to your admiration and friendship for him and to perpetuate his virtues, is the purpose of this meeting. And how appropriate the time and place. The learned Judge of the Circuit is here to open the term of the court, whose record shows his license to practice law, the members of the bar have assembled as in other years, when he was with you. It was at this place he began his professional career. It was from the people of this county he received his first commission to the public service. Fond of sports, with rod and gun in hand, he has pressed nearly every foot of your soil, he knew the windings of your streams, the shade of your woodlands, the richness of your valleys, and the unrivalled views from your hill tops. George Eliot tells us that "A human life should be well rooted in some spot of a native land where it may get the love of tender kinship for the face of the earth, for the sounds and accents that haunt it, a spot where the definiteness of early memories may be inwrought with affection and spread not by sentimental effort but as a sweet habit of the blest." To him this was such a spot, for through all the wanderings of his years, sometimes in distant lands "his untraveled heart" still turned to you. The days he could steal

away from his busy life, he often spent here looking over scenes once so familiar and visiting your hospitable homes ever open to bid him welcome. Surely I cannot be insensible to the honor, which I gratefully acknowledge, of the invitation to pronounce upon an occasion so memorable, a eulogy upon his life and public services.

James Overton Broadhead was born on the 29th of May, 1819, at Charlottesville, Albemarle County, Virginia. His father was Achilles Broadhead, of English stock, a captain in the war of 1812 and the County Surveyor for many years. The maiden name of his mother was Mary Winston Carr, whose ancestors had emigrated from Scotland and became possessed of large landed estates in Virginia. The brother of his maternal grandfather, was Dabney Carr, who married Mr. Jefferson's sister Martha, and who was his intimate friend and boon companion. His maternal grandmother was first cousin of Patrick Henry. Thus it will be seen that he sprang from a strong and sturdy race of people. He was fortunate as well in the place of his birth and his early surroundings. He was born at a time when many of those who founded the Republic were still living, and in a community where a number of them resided. I have not gone into history to see who they were or what position they held, but I prefer rather to call the roll of these illustrious men almost in the very order and words which I once heard him. First and foremost was Thomas Jefferson, who looked down from the heights of Monticello upon the village home of the Broadheads, by which he almost daily rode on his way to supervise the building of the University, the absorbing object of his declining years. Next was Mr. Madison, the "father of the Constitution," whom he said he had often met and talked with. Another familiar figure in the village streets was Mr. Monroe, and a few miles distant was the birthplace and

early home of George Rogers Clarke, the conqueror of the Northwest. In the southern portion of the county lived Andrew Stevenson, Speaker of the House of Representatives and Minister to England, whilst in the northern portion was the home of the gifted William C. Rives, an eminent figure in the United States Senate when that body was filled with giants, and afterwards the accomplished diplomat, as Minister to France.

It was not unusual to see these men talking together in small groups or with their neighbors. I have somewhere read of a number of farmers waiting at the old mill at Shadwell for their meal. As they were conversing together they noticed, walking leisurely down the road from Monticello, four gentlemen. As they approached they recognized Mr. Jefferson. They at once spoke to him and he in turn introduced them to his friends, Mr. Madison, Mr. Monroe and Gen. Lafayette. There were others living in the county whose reputations were more limited, but who were full of love and zeal for their country, and in different capacities had performed signal public services. It was doubtless true that the community where these eminent men lived had been permeated by the influence of their lives, that the theme of conversations on the street corners, at the cross-roads, as well as at every meeting place, turned upon the Republic, then in its experimental stage — upon our institutions, their peculiar nature, the guarantees of the Constitution and its interpretation, the strength and weakness of popular government and kindred topics. And if among the plain country folk there was doubt as to the meaning they appealed to a living witness to interpret. In the heart of these men was a patriotism that consecrated them to loyal and unselfish devotion to the country's cause and service.

One can well imagine, in view of his after life, that the young Broadhead was an eager listener to these discussions, if

not an active participant therein. He was fortunate in these formative influences for, without doubt, they impressed themselves deeply upon his life, as seen in the rich fruit of after years. His maternal uncle, Dr. Frank Carr, a very highly cultivated and educated gentleman, taught him in his classical school at Red Hills, and from him he received a very thorough instruction in English and the classics. In 1835, at the age of sixteen, he entered the University of Virginia, where he remained a year, supporting himself whilst there by his work as tutor. Though unable to remain longer, by diligent study and availing himself of every opportunity for knowledge, by his association with the eminent professors, most of whom had been brought by Mr. Jefferson from Europe, he reaped great advantages during this time. He ever maintained an ardent love for the University, which he manifested in practical ways and was at his death, and had been for many years, the president of the Alumni Association in this State.

In 1836 his father removed his family to St. Charles County, where he established himself upon a farm. The next year his son James followed. In the same neighborhood lived the Hon. Edward Bates, who engaged him as tutor for his children. This was another fortunate turn in his life. He not only taught the children of Mr. Bates and thus enjoyed the refining and intellectual influences of such a home, but he also became his pupil as a student of law. His views on constitutional questions, as well as his political opinions were no doubt greatly influenced by Mr. Bates, and the deep attachment then formed for him was only severed by death.

In 1842 he removed to Bowling Green and was licensed to practice by the late Judge Ezra Hunt. The bar of the Third Judicial Circuit, as it was then known, was an eminent one. It embraced such names as Uriel Wright, Thomas J. Anderson,

Samuel T. Glover and Col. Richmond, of Marion, Hon. Edward Bates, William M. Campbell and Gen. John O. Coulter, of St. Charles, and Judge Carty Wells, of Lincoln.

Without doubt he at once took high rank at the bar, displaying unusual ability and winning the confidence of the people. Three years later, though only twenty-six years of age, he was elected by the people of this county a member of the Constitutional Convention of 1845. In entering politics he allied himself with the Whig party, and in 1847 was elected a representative from this county to the Legislature. In 1850 he was chosen a member of the State Senate from this district. The canvass for these positions was sometimes conducted with much warmth, and in the debates which ensued he displayed such marked ability as to greatly add to his fame and strengthen his hold upon the people.

It was while a member of the State Senate that the memorable struggle arose which resulted in the defeat of Senator Benton, after thirty years of continuous service, and the election of the Whig candidate, Mr. Geyer, whose cause Col. Broadhead ably championed.

In 1847 he married Miss Dorsey, a daughter of the late Col. Dorsey, of this county. Again good fortune attended him, and whilst good taste forbids an intrusion into the sanctity of home, it may be said that this alliance brought great happiness—the strength of character of his wife, her love and devotion and those of his children (for they were a family warmly knit together), were a constant source of support in the active and stormy life he led. His home was the seat and center of bounteous but unostentatious hospitality.

Though his success at the bar in this county was great, and was year by year growing, he felt that a city afforded larger opportunities, and so in 1859 he removed to St. Louis.

Soon afterward he formed a partnership with Mr. Fidelio C. Sharp, which was terminated by the latter's death in 1875. No law firm in Missouri was better known. During the period of this partnership there was hardly any litigation of importance in St. Louis that Sharp & Broadhead were not on one side or the other. The vast litigation growing out of the war, intricate commercial and corporate questions, those effecting the extension of the railway systems of the State, and the foreclosure and reorganization of same, in a word every phase of law with which an eminent lawyer is called to deal, were involved in the numberless cases he argued before the Federal and State Courts. It is not within the scope of this address to enumerate even the leading cases with which he was connected. His name is found in the Supreme Court reports not long after he began to practice. From that time forward it would be difficult to find a volume in which his name in some case of importance did not appear. In the case of the City of St. Louis against the Gas Light Co., involving intricate questions of law as well as vast moneyed interests, and which attracted the attention of the bar of the State, he was retained by the company to argue it before the Supreme Court. A distinguished member of the bench pronounced it the ablest argument he had heard during his term.

In 1876 he was the special counsel for the government in the celebrated "Whisky Ring" cases which excited the attention of the whole country, owing especially to the magnitude of the conspiracy and the eminence of the men on trial. His addresses to the jury were models of clear, concise and logical massing of the facts.

In talking with him a few years ago about the leading causes with which he had been connected, he said to me that he considered that his greatest professional triumph was in the

decision of the Supreme Court of the United States in the case of the Express Companies against the Railroad Companies. It had been decided in the court below that an express company in the absence of any contract with a railway company had the right to require of such company a special car or cars for its express matter, to furnish a place for an express messenger and to furnish accommodations at the different stations for the express company, the compensation to be determined by the court without any agreement between the parties. In a word, was the railway a common carrier of a common carrier? Three of the Justices on the Circuit had decided in favor of the express companies and opposed to him were such eminent counsel as Senator Edmunds, Mr. Seward, of New York and Ex-Judge John A. Campbell, of New Orleans. Upon him fell the responsibility of closing the case in a speech which lasted over two days. Those who heard him pronounced his speech as masterly, taking first rank among the great arguments that have been made before that high tribunal. The result was a reversal of the decision of the lower court. One of the most interesting cases in which he was engaged and which showed his powers to the best advantage was what is popularly known as the Mormon Church case, by which he claimed that the act of Congress March 3, 1887, decreed a dissolution of the corporation by virtually confiscating its property to the United States without any default on the part of the corporation or any judicial judgment of ouster or dissolution. He arraigned with much power the act as nothing more nor less than judicial legislation and an unwarranted exercise of arbitrary power. Legislatures and the customs of communities might change certain laws to meet public exigencies but, said he, "There is a law that does not change; the law of the land which recognizes the doctrine that no person shall be deprived of life, liberty or property

without due process of law. That is unchangeable and eternal. It qualifies the authority of legislators, it limits the jurisdiction of courts ; it stands as a sentinel to guard against the approach of arbitrary power over individual liberty everywhere throughout this land. Whencesoever it came, whether from the barons of Runymede or from the forests of Germany, or from the teachings of Greek philosophers of an early age, it has found its way here and in this country it has become the foundation stone of our political fabric."

To one who met him in consultation or saw him about the court room he seemed at first sluggish and indifferent to what was going on. But as soon as the facts of the case were stated he was remarkably quick to announce what the law thereon was. So well versed was he upon the underlying principles that it was a rare occurrence if, whenever he announced a proposition of law, adjudicated cases could not be found to sustain him. A leading member of the bar who was often pitted against him said he could never surprise or confuse him on the law for he was always ready ; the only hope was, by diligent preparation to get ahead of him on the facts. He believed with Lord Coke that " Reason is the life of the law," and in his arguments he rarely contented himself by stating what certain cases had decided, but he gave the reason therefor and the principle underlying them. What we call the technicalities of the law were distasteful to him. He had a direct mind which went straight to the core and heart of the case. He never appeared so well in the court room as when fully aroused by the heat of the contest. It was then he was most resourceful, his faculties were brought into full play and he dealt the sledge hammer blows that made him such a tower of strength at the bar. Nature had been lavish in endowing him with high intellectual powers, but that which seemed to give him extraordinary force

as a lawyer was his exalted sense of justice. The court room was something sacred to him, the place where life, liberty and property were dealt with. He believed with Sir James Mackintosh that, "Justice is the permanent interest of all men and all commonwealths." And with Mr. Webster that, "Justice is the great interest of man on earth. It is the ligament that holds civilized beings and civilized nations together," and, like him, worshipping at its temple, he steadily "contributed to raise its august dome still higher in the skies."

He knew that the blessings of justice amongst the people could only be realized through the courts. Hence to him any undermining of the judicial system, either by partisan attacks, exacting decrees to suit popular clamor, or by timid or corrupt judges yielding to base influences, was weakening popular government by withdrawing one of its greatest bulwarks. He believed with Marshall that, "The greatest scourge an angry Heaven could inflict upon a sinful people was a corrupt and dependent Judiciary." No matter what case he was called into, what branch of the law it involved, those who stood opposed to him recognized the fact that they had a formidable antagonist to cope with. But the bent of his mind and without doubt his greatest strength lay along the line of constitutional law. He was a profound student of English institutions, and had traced step by step the growth and development of constitutional principles. He knew that when the first English colony landed in 1607 at Jamestown, the seed of the freedom of the individual as a matter of right and not of privilege had been sown on this continent. He saw this seed take root and grow with marvelous rapidity, receiving fresh impetus from the revolution, until finally it was crystalized in organic law, securing to us forever the blessings of civil and religious liberty, the royal lions that guard the monument of our national

glory. So it was, that when he came to interpret constitutions he read them not alone by the letter but the spirit as well, for he knew the origin thereof and how these lines could be traced through the growth of centuries and through suffering and bloodshed. Col. Broadhead had been a great student of the Constitution and the interpretations placed upon it by the courts. He was an ardent admirer of Chief Justice Marshall. He believed that it was true as said of him that he found the Constitution "inanimate and inarticulate and gave it light and life and a voice of sovereign command." He had at finger's end all of that eminent Jurist's great opinions, such as *Marbury vs. Madison*, *McCullough vs. Maryland*, *Ogden vs. Gibbons*, the *Dartmouth College* case, *Fletcher vs. Peck*, *Sturges vs. Crowninshield*, *Cohen vs. Virginia*, and others. These were the landmarks by which he steered. That the Federal Government was one of enumerated powers and could only exercise the powers granted was with him axiomatic. As to the extent of the powers granted it has been and will continue to be a source of debate. The rule laid down by the great Chief Justice was, "Let the end be legitimate; let it be within the scope of the Constitution and all means which are appropriate, which are plainly adapted to that end, which are not prohibited but consist with the letter and spirit of the Constitution, are constitutional." By this canon of construction he tested every questionable act of the Federal Government. He was not a latitudinarian in construction. But he saw in the Federal Government, to the extent of powers delegated to it, all the attributes of sovereignty :—a legislature to enact laws, a judiciary to interpret and an executive to enforce them, and all laws so enacted were "the supreme law of the land." He knew it would be a weak government that could not enforce its own laws and it would be incompatible with the very idea of sovereignty to rely upon a different hand for that end.

In 1878 he was elected the first president of the American Bar Association, which was organized at Saratoga. This honor he highly appreciated as an evidence of his standing with his professional brethren ; for it may be said, without detracting from others, that no lawyer in Missouri enjoyed such a national reputation.

He did not believe that the duties of a lawyer began and ended with the court room or the consultation chamber. He looked upon the profession of the law as an order of government and he who lived up to its full measure had a public service to perform whether in or out of office. This high sense of public service was perhaps early quickened in him by the inspiration of the brilliant galaxy of names in his native State, some of whom he had seen, who, whilst founding States, embodying in statutes and constitutions the principles of liberty, protected by law, were the great leaders of the bar. When called upon to advise or counsel, or even aggressively participate in public matters, he never said : " I am too busy with private affairs, I am making too much money to give my services for the public good." To him such an answer would have been ignoble and unworthy. His professional and public life were so closely interwoven that it is a difficult task to speak of one without discussing the other.

PUBLIC LIFE.

In an analysis of his public life I am sure this audience will welcome candid speech. The positions he assumed on many of the momentous issues and questions he dealt with, differed sometimes radically from those you maintained. Nevertheless, I should be unworthy of him or of this occasion did I not speak forth with frankness, endeavoring to state, as I shall with fairness, the reasons and motives that actuated him.

Over the portal of the main building of his Alma Mater is inscribed her motto: "And you shall know the truth, and the truth shall make you free." This was the spirit of her founder ; this was the spirit that animated Col. Broadhead in the investigation of every question. He was not afraid to search for truth, and far better still, when once found, he had the moral and physical courage to plant himself thereon, little caring what the results to him personally might be.

We find him in 1861, that period that tried men's souls, neither dodging or sulking, but bravely meeting the issues of the impending crisis. Events moved with rapidity ; States were withdrawing from the Union, Federal authority was defied and the war clouds were gathering. Confronted by these conditions, the Legislature called a convention to consider the relations existing between Missouri and the Federal Government. Amongst the eminent men who composed its membership Col. Broadhead stood in the front rank. His views upon the powers of the general government were well fixed. He re-enforced these convictions with an ardent love for the Union, and with a firm determination so far as in him lay to maintain it at all hazards. Looking back after more than three decades have elapsed, with the prejudices of that stormy period eliminated, I think he presented at that hour an heroic figure. Knowing his love for his kith and kin, for the associations and friends of his youth and manhood, and seeing most of them siding with the South, it was no easy task to face their taunts, to hear their words of disloyalty to the people amongst whom he had been born and lived (for what stronger ties than those of blood and society), yet he would not have been the Broadhead we have known, had he hesitated a moment to take the step whither conviction and duty pointed the way. On March the 12th and 13th, 1861, he delivered before the convention a speech of great

power and ability which, if time permitted, would be well worthy of extended examination. It was on a resolution offered by Mr. Moss, of Clay County : "And further believing that the fate of Missouri depends upon the peaceable adjustment of our present difficulties, she will never countenance or aid a seceding State in making war on the general government, nor will she furnish men and money for the purpose of aiding the general government in any attempt to coerce a seceding State." He discussed at length the nature of the general government under the Constitution. He pointed out that the general government had certain delegated powers, and that the laws enacted in pursuance thereof were supreme. That to see that such laws were enforced the general government could use all the military force at its command, with full power to call upon the militia of the States to suppress any insubordination of citizens defying such laws, or refusing to yield obedience thereto. This doctrine, thirty-five years after, he maintained, when the President used the military forces at Chicago to see that the Federal laws affecting commerce between States and the mails of the United States should not be defied, but executed, whether on the soil of Illinois or any other State.

Passing from constitutional grounds he analyzed the property interests of Missouri, showing the small percentage represented as slave property, and, upon economic reasons, the folly of Missouri's attempt to sever her connection with the Union. Upon those who saw bloodshed and death and devastation ahead unless Missouri remained neutral he turned, and, with an impassioned burst of eloquence full of meaning to one of his courage, and not given to vain boasting, and exclaimed "Who would not be willing to meet these calamities to preserve the Union and Missouri in the Union and secure to ourselves and our posterity such a destiny as most assuredly awaits us.

That man who does not know when to die is not fit to live ; and what better time to offer up our lives than in behalf of such a cause?"

During this year, at the instance of his friend, the Hon. Frank P. Blair, he was made a member of the Committee of Public Safety, to whom was confided the guidance of all movements in the interest of the Union and the resistance to all attempts at the secession of the State.

Upon the work of this committee largely depended the future of the State ; whether it was to remain in the Union or withdraw therefrom. His death removed the last survivor of the committee, his associates being Samuel T. Glover, O. D. Filley, Frank P. Blair, J. J. Wetzig and John How. Again, in November, 1861, at the earnest solicitation of his friend and preceptor in the law, Hon. Edward Bates, then Attorney General in President Lincoln's cabinet, he accepted the position of United States Attorney, but he found his time so engrossed with other public duties he had assumed, which he considered of greater importance to the government, that he resigned this office in August, 1862.

In 1863 he was appointed Lieutenant-Colonel of the Third Missouri Cavalry and was made Provost Marshal General of the Military Department of Missouri. In many respects in no position he ever held did his superb qualities show forth so well as in this. His powers were almost absolute ; like the centurion of old he could say, "to one come and he cometh and to another go and he goeth." The people of the State were rent in twain, families were divided, neighbors were at war, men spoke in bated breath, not knowing their friends or enemies. The malicious sought an opportunity for revenge ; there were plots and counterplots and no man knew what hour he might be dragged to prison, or shot down by some raiding

guerrilla. Growing out of such conditions there came before him the most delicate questions, for even human life oftentimes hung in the balance. Though clad in the uniform of a soldier, he administered his office as one wearing the robes of a judge. All his life he assailed the exercise of arbitrary power. He once said it had no other basis than the answer of the brute and barbarian, "I am stronger than thou." He ignored the maxim, "*Inter arma leges silent.*" It was the testimony of those associated with him in this work that, through the hours of the day and often into the quiet of the nighttime he was patiently passing upon papers and the proceedings of drum-head court martials that often involved the life of a citizen, with the care, patience and conscientious regard of an upright judge. In the madness of the hour, though firm as a rock in upholding the government, he was fair and just to his fellow-citizens, the highest praise coming from those arrayed against him. Some in similar positions had been merciless in their action. It was not so with him. He supplanted tyranny with justice, tempered power with moderation, and even amid the fierce passions and strife of civil war,

"He bore the white flower of a stainless life."

But now the "bugles sang truce" and the war was over. The victorious armies of the Union were marching home with their proud banners unfurled and amid the loud acclaim of the people. But to this State, so divided as it had been in the struggle, there came the scattered fragment of another army, feelingly described as "an army that marched home in defeat and not in victory, in pathos and not in splendor, but in glory unequalled and to hearts as loving as ever welcomed heroes home." They were of kindred ties and associations with you. They were "bone of your bone and flesh of your flesh," but

they found themselves and all who sympathized with them disfranchised, resting under pains and penalties and debarred from exercising the rights of citizenship. More perplexing problems rarely ever confronted a people. The hour called for a high order of statesmanship, for superb courage, for hearts filled with magnanimity for the vanquished. Thanks be to God, men arose in this State equal to the hour. Col. Broadhead knew history well. He knew that a political party in complete control of every department of the government that had carried to a successful end such a war, with the prestige of preserving the Union and maintaining the supremacy of the flag with all it stands for, was destined to control the government for years to come. Had selfish ambition, had greed for office controlled him he could easily have seen that the way to high political honors was through an adherence to the Republican party. But in this as in every political act of his life, he measured his actions by the standard of what his convictions told him was right, regardless of the consequences to himself. The air was full of the words "traitor" and "rebel," the prejudices were something which after the lapse of nearly forty years, we can little appreciate ; but it was not in his great heart to harbor hate and ill-will born of civil war, for with him, these like the froth of angry waters had passed away with the storm. His personal and political friend, the Hon. Frank P. Blair, in whose ability, patriotism and leadership he had unbounded confidence, had sounded a second call to arms ; and the scattered hosts of the Democracy were gathering for a new alignment. He had taken a bold stand against the provisions of the Drake Constitution, which not alone destroyed the citizenship, but prevented many from pursuing their vocations as a means of earning their daily bread. He was equally outspoken in denouncing the reconstruction acts of Congress as revolutionary.

Col. Broadhead was his right hand, his chief lieutenant. He asserted that the so-called reconstruction legislation was contrary to the genius of our government and unwarranted by the Constitution. He rejoiced to know that the Supreme Court of the United States afterwards in six cases, though the large majority of the judges belonged to the dominant party that enacted these laws, held this legislation unconstitutional and baffled the policy undertaken. It shall be for all time recorded to the honor of that tribunal that it rose above politics and prejudice, and when the argument of war necessities was urged a learned judge answered back : "The Constitution of the United States is a law for rulers and people equally in war and peace and covers with the shield of its protection all classes of men at all times and under all circumstances. No doctrine involving more pernicious consequences was ever invented by the wit of man than that any of its provisions can be superseded during any of the great exigencies of government. Such doctrine leads directly to anarchy or despotism." In the years immediately following, his professional business was so large as to engross nearly all his time, but whilst holding no public position he was continually called upon to give counsel and advice regarding public movements and policies and with his conception of a lawyer's duty he never declined. He was often before the people participating in political campaigns and delivering addresses upon different topics affecting the State and country.

In 1875 he was elected from St. Louis a member of the convention to form a new Constitution. Its membership was made up of some of the first men of the State, and it is needless to say he contributed largely thereto. Among the questions before the body were those of restricting legislative power, of checking the creation of bonded indebtedness by

municipalities and counties, which had been a fruitful source of evil, of re-organizing the judicial system of the State, of defining corporate powers, of granting to St. Louis the right to enact a charter, thereby establishing in great degree local autonomy, and his work on all these matters proved of great value. It is fresh within the minds of this generation how, after the presidential election in 1876, the country seemed on the verge of another war. In December of that year Gov. Charles H. Hardin sent as special representatives from this State General John S. Marmaduke and Col. Broadhead to Albany to confer with Gov. Tilden. In the letter of introduction he said: "In the emergency that seems to be forcing itself upon the country it is proper that all should know the path of duty and therefore it is that these gentlemen go to you as the best and wisest counsellors. You can safely and confidently communicate to them such views and conclusions in regard to the duties of citizens and State authorities as your judgment may dictate." The private diary kept by him during his visit is interesting as showing the conversations with Mr. Tilden, in which they went over the crisis then pending, especially the legal and constitutional questions involved in the count of the electoral vote, his several trips between Washington and Albany and the confidential relationships he bore to the party leaders. I allude to these facts here to show, as confirmed by the words of Mr. Tilden, the high esteem in which he was held not only in this State but throughout the country, and the supreme confidence reposed in him in hours of emergency.

In 1882 he was elected a member of the Forty-eighth Congress, in which he performed valuable services as a member of the Judiciary Committee. In 1885 he was appointed by President Cleveland Special Commissioner under an act of Congress relative to the French spoliation claims. This necessitated his

making quite an extensive trip abroad to examine into the archives of the French Government at Paris as well as into the records of those tribunals having jurisdiction over prize causes in such cities as Havre, Cherbourg and others. He made to the State Department a most valuable report involving the result of his labors, including procedures for condemnation, of about 300 American vessels which was made the basis of the first definite action by Congress upon matters which had been pending for nearly a hundred years.

In 1893 he was appointed a Minister to Switzerland, which position he filled for about two years. He disposed of all the accumulated business he found, and feeling that he could render no further service of importance resigned to come home and spend the rest of his days among his own people.

So far as his years and health would permit he participated in the exciting campaign of 1896, being as he always was outspoken upon the issues involved. He was always quick to detect the logic of political principles announced, and the consequences to the country flowing therefrom. He saw in the Chicago platform a declaration of principles to which he could not honestly give adherence. He believed their triumph meant disaster to the country. Whether you differed with him or not, no man that knew the man or the history of his life, that could say that any position he took upon a public question vitally affecting the interest of the country was based upon anything but honest conviction. I know it pained him deeply to separate from those with whom he had fought so many political battles, many of them being his personal friends as well, but such was the nature of the man that he would never hesitate for personal considerations if duty and conviction, as he saw them, called for different action. Nor was there the least element of cowardice or timidity about him upon such issues. He would

not hide behind the decrees of a party, as a means of avoiding individual responsibility. His conception of duty was, that being right, he should make bold to assert the right. It was with such feelings that he went to Chicago in July, 1896, to participate in a conference of gentlemen from the Western States, who felt as he did, to consider what should be done. Some hesitated, but his voice cried "forward" and, the result was the calling of the Indianapolis Convention, in which he participated and aided in formulating the declaration of principles there announced to which he heartily subscribed to the day of his death.

In summing up his public career some may say that he never arose to the high positions that some of his contemporaries reached, and by this they measure him. I think his friends might well admit that in many phases of politics which in this age seem so essential to success, he was decidedly weak. But with men cast in this mould the idea of office was small as compared with higher duties fearlessly and faithfully performed. His ambition was to "act well your part, there all the honor lies." In a ward meeting he would have cut a sorry figure. He was as much out of place in a political convention or the halls of a legislature where it required dickers and deals and dubious combinations to reach results. If in a committee room he had been called on to draft a platform of principles, and the suggestion was made that he should go as far in a certain direction, regardless of the vital principles involved to catch a needed vote without losing many of those of his own party, and in another direction for the same end, he would have thrown down his pen with contempt for an organization that would so act. If on the other hand a committee was honestly endeavoring to make a fearless proclamation of its principles to the world in accord with the genius of the government and its

constitutional principles, or wished to assail its opponents as having failed in this regard, the wiser men therein would have said, before making public our report it would be well to confer with Col. Broadhead.

The bent of his mind was towards certain lines of thought. In Congress he would have stood high as chairman of the Judiciary Committee, or Foreign Affairs when justice between nations should be the first consideration. Such positions as the head of the Appropriations Committee or that of Ways and Means would in many respects have been little suited to him. He could deal ably with the legal phase of the limit and power of taxation, but dealing in figures and details, the fiscal policy of the government, its resources and how utilized, and its expenditures, such faculties as made Mr. Gladstone such a master in handling the "Budget," were little to his taste. Whilst one of his intelligence and fidelity to public matters would have been at all times useful in preparing legislation affecting our commercial interests yet he could never be considered great in such matters. To him the liberty of the citizen was dearer than the amount of wealth the citizen could accumulate. Whilst comparatively few of his years were spent in office yet in a larger sense he was continuously in the public service. He was an ardent American. He freed himself from the curse of provincial politics. He was the purest patriot I ever knew; he had his country for his client and the cause of no individual however large the retainer given, was ever more faithfully served. You, his fellow citizens, some of whom knew him for half a century can bear testimony to his bold and fearless stand at all times for what he thought was right and the impossibility of defending what he believed to be error. "He never sold the truth to serve the hour." He was straightforward, direct, with no power to tickle the ear of the

madding crowd. He did not appeal to prejudices but to reason, and the high obligation of patriotism. To dissemble was impossible. He came to the people, not with adulation, but with truth, not with words to please, but with measures to serve. With Burke in reply to the noble lord he could say: "I was not made for a minion or a slave. As little did I follow the trade of winning the hearts by imposing upon the understanding of the people, at every step of my progress in life I was obliged to show my passport and again and again to prove my sole title to the honor of being useful to my country by a proof that I was not unacquainted with its laws and the whole system of its interests both abroad and at home." Those who believe that the chief end of a political party is to win victories and distribute offices uniting "the loosest bonds of principle with the closest bonds of organization," will find much in Col. Broadhead's public life to criticize. He believed in political parties but he regarded them as "associations of voters to promote the success of political principles held in common."

The name and the organization were little; the political principles everything. He was never willing to sacrifice the substance for the shadow. Some who little appreciated the purity of his motives charged him with vacillating; that he had changed from one party to another. But when he did so it was against rather than with the popular current and it meant a sacrifice rather than a reward for personal ambitions or low and selfish ends. Looking back to those momentous events in which he played a conspicuous part, so far removed in time as not to be clouded by the prejudices of the passing hour, I think all who differed from him will admit that he acted from the highest patriotism and most of them will add that the positions he took have been proven to have been the wisest and for the best interests of his country and State. I might

conclude here, but in any address before his old neighbors no picture of his life would be complete without speaking for a moment of him as a citizen and friend.

It is the highest compliment to him as it is to any one that those who knew him best, who came closest to him, were his greatest admirers and could bear witness to the unsullied purity of his public and private life. One of the main secrets of his success at the bar was that when he walked into a court room he inspired confidence in the judge and the jury. They believed in what he said. Such was the feeling of the people towards him when upon the hustings. It sprang from the splendid character of the man. In appearance he measured up to what Thackeray said of Henry Warrington, that "Nature has written a letter of credit upon some men's faces which is honored wherever presented." He had strong common sense united with plain, simple and direct character. Like the Iron Duke,

"Rich in saving common sense,
And only as the greatest are
In his simplicity sublime."

To sham in any phase of life would have been impossible in him. He had abiding faith in popular government which was justified by the confidence the people reposed in him, for he was conscious of the purity of his own motives, and his devotion to the country's good. His guileless nature made him often the target for designing people. Full of passion he turned at times with anger upon those who had abused his confidence ; but it was not in his nature to harbor revenge. He never had the quality of which Dr. Johnson boasted—that of being a good hater. I think he was one of the most tolerant men I ever knew, but there were two types for which he had a supreme contempt, the trickster in the law, and the demagogue ;

one trying to cheat the administration of justice, and the other to deceive the people ; both of these he placed upon the same level. Such was his nature—that “it rang true to every blow that tried his manhood’s metal.” He was full of sympathy and generosity always having “a tear for pity and a hand open as day to melting charity.”

He had fondness for reading, and the beauties of literature. The English classics he was especially fond of and with English and American history he had great familiarity, whilst all works showing the evolution of constitutional government he eagerly sought after. Those with whom he was on intimate terms he often surprised with his knowledge of poetry and how well his memory was stored with its treasures.

About two years ago he remarked one day that he felt the infirmities of years, but that he could not see that his mental faculties had been in the least impaired, and that there were several pieces of work he was anxious to finish. One was a paper upon the Louisiana Purchase, which he subsequently prepared and read before the Missouri Historical Society. So exhaustive is it in research and the testimony brought forth that one wishing information upon that important history should seek it and need seek no farther. It was called forth by the official map of the Interior Department making the Pacific Ocean the western boundary of the purchase. He contended it was the head waters of the Missouri river and he had the satisfaction of being informed that the map would be so changed. All public questions interested him to the very last. When the war was declared the flag was hoisted over his home, an outward expression of his loyalty. It floated there when he died. He saw the navies of the enemy swept from the sea and its armies surrender, but he saw that which pleased him beyond measure, the obliteration of sectionalism forever ; and

the country indivisible in the heart as upon the map. It were well could he have been spared us to aid in the solution of the grave questions now to be dealt with growing out of the war. Though for forty years a citizen of St. Louis watching its growth with pride, active in all city affairs and a prominent figure at social gatherings, he always seemed to turn with fondness to pastoral life. He loved nature and was susceptible to her impressious. Every chirp of a bird, every neigh of a horse, every bleat of a sheep seemed to recall some sound and scene that was dear. As you saw him coming along the street he would convey to a stranger a type of a prosperous country gentleman who had drawn upon the best of the flocks of the fields, and the fruits of the garden for his table ; nor was there lacking in his ruddy face the suggestion that the mint patch by the old spring was still flourishing. The qualities combined in him made a person of marked individuality. Most men die and others fill their places and the world moves on, little noting their end. But as you look around there is no one we see like unto him for the world seems lonesome that he has gone. Those who stood close to him almost forget the great lawyer, the pure patriot and statesman, the model citizen in thinking of the genial simple and loving friend. Your homes were always opened to him. "He never came too early or staid too late." Old age brought with it no disappointments or bitterness. His life seemed rather softened like the fabled apple that ripens "on the side the sun goes down." Though he bowed with humility at the altar of the church of his choice, he was not a man given to the forms of religion or who stood upon the street corners to give thanks that he was not as others. He endeavored to embody the teachings of the Master in his life, and an innumerable cloud of witnesses can bear testimony to how they bore fruit in his daily walk and conversation. It is

well we keep from view the gloom of the sick chamber. He saw the darkness approaching but with hope he looked ahead for the "Kindly Light" to lead him amid the encircling gloom. He did not wish others to sorrow but rather to be of good cheer, for we can well imagine the last lines from the lips of England's poet laureate as fully expressive of his feelings :

"Though from out this bourne of Time and Place
The flood may bear me far,
I hope to see my Pilot face to face,
When I have crost the bar."

There was nothing dramatic or to excite the imagination of men in his taking off.

The master of English fiction has drawn a character from which we get glimpses of virtues we admired in our friend and who can forget the brief but pathetic words that chronicled his death. "At the usual evening hour the chapel bell began to toll and Thomas Newcome's hands outside the bed feebly beat time. And just as the last bell struck, a peculiar, sweet smile shone over his face and he lifted up his head a little and quickly said "Adsum," and fell back. It was the word we used at school when names were called, and lo, he whose heart was as that of a little child had answered to his name and stood in the presence of the Maker."

So it was with him, without murmur or complaint, as unaffected as a child, he closed his eyes for the last sleep as "one who wraps the drapery of his couch about him and lies down to pleasant dreams."

Gauged by the dollar mark some might say in this age that after all, he lived to little purpose. Let us take hope. This great assemblage testifies by your presence your reverence and regard for his memory and his exalted life, and by your tears, your affection for the man. The impulse of such a life

never dies. Who that it has touched has not felt it? Though it may be unseen it passes from one to another, for behold, the influences of his work are all around us, the best monument of greatness and goodness. Written not alone in Constitutions, in Statutes, in Judicial Decrees. From its lesson he who is called to the bar feels a new impulse to higher things, he who would serve his country with unselfish and patriotic devotion takes fresh courage from the good he wrought.

“ He needs no tears who lived a noble life,
We will not weep for him who died so well ;
But we will gather round the hearth and tell
Of all his noble strife ;
Such homage suits him well,
Better than funeral pomp or passing bell.”

ADDRESS OF HON. GIVEN CAMPBELL IN
PRESENTING THE MEMORIAL OF THE
ST. LOUIS BAR TO THE ST. LOUIS
COURT OF APPEALS.

DECEMBER 27, 1898.

MAY IT PLEASE THE COURT :

ON the 7th day of August, 1898, James Overton Broadhead, a lawyer of national reputation and a most eminent member of the bar of this court, departed this life.

Born in the State of Virginia, about one year before the birth of his adopted State, at the age of eighteen years, fresh from the teaching of the great University founded by Jefferson, he cast his fortune with the people of Missouri, and with her legal and political history his name has been closely and honorably connected for more than half a century.

Colonel Broadhead was from his earliest manhood filled with an exalted public spirit. His interest in his community, his State and his country, constrained him, when occasion demanded voice and action, to exert his powers in their behalf. He has left the stamp of his sure-footed judgment upon our statute books and our reports have been enriched by his luminous arguments. His voice never failed to ring clear and loud for the people's rights. The motto of his mother State was never forgotten, and he was constant and unfaltering in his opposition and resistance to tyranny of any kind.

As a lawyer he was learned in the great principles of jurisprudence. To him law was a science grand and progressive ; the philosophy of the law appealed to his mind, and he searched for principles, not cases, yet no one had read more carefully those decisions wrought out by the almost supernatural intellects of the great judges who were first called upon to interpret our Federal Constitution. It was his knowledge of legal principles which constituted his most marked excellence as an advocate and a jurist.

When difficulties surrounded him and doubts clustered about the mind of the judge, it was then that he drew freely from his full reservoir and brought his reserved strength to the front and marshalled arguments founded upon principles which cleared away doubts.

Colonel Broadhead was nothing of an actor, but the earnestness of his nature stirred the emotions or his hearers with the force of true eloquence. He despised all artifice ; he had no self-consciousness. He was kindly, trusting, simple and loyal.

For more than half a century he gave to the people of this State the full measure of his talents ; his mental industry even in old age did not flag, and none of his faculties were withered from disuse ; he lived out a long and honored life, and it was most meet that his brethren at the bar should pause to commemorate his virtues, and on the 9th day of August, 1898, a meeting of the St. Louis Bar was held when a memorial, which I hold in my hand, was adopted, to be presented to the courts in which he practised.

I therefore move the court that the memorial be spread upon its records as a remembrance forever of the virtues of our departed brother.

ADDRESS OF JAMES HAGERMAN, ESQ., IN
PRESENTING THE MEMORIAL OF THE
ST. LOUIS BAR TO THE CIRCUIT
COURT OF THE UNITED
STATES.

JANUARY 3, 1899.

MAY IT PLEASE THE COURT :

THE mournful, yet loving task has been assigned me of presenting to this Honorable Court the memorial of the St. Louis Bar upon the life and character of James O. Broadhead. I was at the meeting of our bar immediately following the announcement of his death, and well remember that our sorrow was so great and the touching words of affectionate praise by his surviving professional brethren and an old outside friend, so wrought upon the feelings of all, that it was concluded wise to take time for the preparation of a calm, thoughtful and matured estimate of our deceased brother, worthy of him and creditable to us. The memorial I present is the result of the action then taken, and its warmth of expression, beauty of diction, wealth of information, and tender, impartial and philosophic vein amply justify the wisdom of our course. When lodged in the archives of the court (as we hope it may be) it will be an enduring testimonial in the nature of a permanent record which will survive traditions and the mutations of years.

The memorial derives, if possible, added interest from its author. The names of Blair and Broadhead are indissolubly linked together in the history of our city, State and nation. It is rightful evolution and harmonious, poetic justice that Frank Blair's son should be the organ of the St. Louis Bar to pronounce its official tribute to the memory of Col. Broadhead.

How strange it seems that Broadhead is no longer here and that we are to meet and to greet him no more in this forum where he was always such a conspicuous presence, and which has been the scene of so many of his professional conflicts and achievements. He was an active practitioner in this court long before any of the now living judges of any of the Federal Courts assumed their judicial functions. His career at the bar spanned more than a half-century. He was here when Justice Catron rode the circuit and during the larger part of the judicial administration of Judge Wells. He saw Justice Miller appointed, and was here during all the time that great judge ruled and reigned. He was here when Treat ascended the bench, and was a continuing witness of the labors of that excellent and just judge until he retired to a well deserved rest from the toilsome exactions of his double duties in the Circuit and District Courts. Broadhead was here before the Congress of the United States provided for Circuit Judges. When Judge Dillon adorned and illumined this bench he was almost constantly at this bar, and was here during the whole mild, thoughtful and beneficent ministration of Judge McCrary. He saw Judge Brewer preside here and pass to the Supreme Court, there to enroll his name among the eminent judges of the century. Broadhead had been in the full tide of practice here long before Caldwell took charge of the Federal District Court of Arkansas, and was here when that able judge came to this court and put his armor on and lifted his visor as a Circuit Judge. He saw Judge

Sanborn come fresh from the bar of the Northwest and take his place upon this bench. He was here before Thayer was elevated to the State bench, and witnessed his appointment as United States District Judge, rapidly followed by promotion to Circuit Judge. He contributed to the creation of the Federal Circuit Court of Appeals, and saw the judges of that court assume their judicial robes, and was spared to see its judicial duties administered by its present wise triumvirate of judges, who have, however, fortunately not ceased to be judges of the Circuit Court. He saw Priest (whom he was wont to call one of his boys) come here, receive his judicial christening and go back to the activities of the bar. He was here to welcome and approve Judge Adams' renewal of a former voluntarily interrupted judicial career. Always a friend of the Federal Courts, yet ever insistent that they should be kept within their constitutional moorings, in his declining years he was personally profoundly gratified (as I happen to know) that this historic court was under the judicial and judicious guidance of Judges Brewer, Caldwell, Sanborn, Thayer and Adams. As a patriot, the old man was proud of and loved his country; as the Nestor of the bar, he respected, honored and was proud of her judges. His relations to this court and its bar were entirely kindred to those he bore to the bench and bar of this State and of adjoining States and of the Union.

Broadhead ever stood for the supremacy of the law.

He once said :—

“The fabric of civilized society is supported by the pillars of the law,” and that laws “should be founded on the principles of eternal justice as dictated by the consciences of men chastened and strengthened by the precepts of the divine law.”

And further that “the subversion of the law in any case, except where its enactments become so universally burdensome

as to justify revolution, takes away from every individual the only security he has for the protection of his rights of person or property.”

While steadfastly upholding the majesty of the law and the authority of the courts, he also boldly stood for the rights of the bar, especially of those lawyers who bear the heat and burden of the everyday work of our profession.

Speaking of them (and his words have a Baconian flavor) he said :—

“The school of the practicing lawyer enables him to
“acquire a practical acquaintance with human nature in all its
“multiplied phases. He may learn what weaknesses may be
“pardoned; what excess of passion may be condoned. He
“may learn that there are in most instances two sides to every
“case. How apparent violations of right may be explained.
“How little difference there is in the great mass of human
“beings, and what are the secret springs of human actions
“which are hidden from the outside world, and he is, there-
“fore, less disposed to form a rash judgment of human actions.
“It belongs to the members of the legal profession to study
“the rights of individuals in their various relations to each
“other and to the State, and to see that they are secured by a
“just administration of the law. To do this demands as well
“a thorough knowledge of the principles of jurisprudence, as
“taught by the masters of the profession, the special enact-
“ments of legislators, and the origin of the customs which
“have ripened into laws by the judgment of competent tribu-
“nals, not, however, by too much reading, but by much reflec-
“tion and reasoning upon what the law should be in a given
“case, as also the relations of the different members of society
“to each other, the various industries which become subjects
“of contracts, the products of human genius which in the

“ progress of a rapid civilization have developed new industries,
“ and to what extent they have changed former conditions,
“ and in all legal controversies in which they may be concerned
“ to make a fair and honest presentation of the law and the
“ facts before the court, and above all things to avoid the stir-
“ ring up of litigation, and when consulted by a client to
“ counsel the settlement of a controversy without litigation if
“ it is deemed advisable to do so, and, under all circumstances,
“ as an officer of the court, to have the courage to defend the
“ right, however it may be assailed, whether by the voice of
“ the multitude or the despotism of a single individual clothed
“ with official power.”

In the broadest sense Broadhead was a large man. How often we who knew him best have involuntarily spoken of him as “ the grand old man,” thus applying to him a phrase that the world seems to have reserved exclusively for England’s great commoner. He was of the type and mould mentally and physically of such men as Benton, Bates and Browning. It is not exaggeration to compare him favorably with men of higher renown and wider fame. Men may be great and good without playing their life’s drama on the widest stage. In contemplating Broadhead when he was with us, and in estimating him since he has passed away we were and are ever confronted with the thought of what he might have been, without underestimating what he was. This is especially true in viewing him from the standpoint of a public official. Every station he held in public life, whether in our State Legislatures or our Constitutional Conventions, in our Bar Associations, in military or civil place, in Congress or in the diplomatic service, he filled with honor, grace, dignity, ability and usefulness. It is part of the unwritten history of the past that had Tilden been installed as President, Broadhead would have been invited to the cabinet.

Does anyone doubt he would have made a great Minister of State, whether as Attorney General or in any of the secretaryships? Would not his elevation to the bench, State or national, at any time before old age overtook him, have been welcomed with universal approval? He was the stature of a Chief Justice, American or English. As Senator in Congress he would have stood in the front rank as easily as he did stand in the front rank at the bar. If he had been sent as Minister to England instead of Switzerland he would have discharged the duties of that important post to the satisfaction of all. If the suffrages of his countrymen had called him to the presidency of the nation he would have been found fully equipped, and would have administered that high office with as much fidelity, ability and success as he did the early offices conferred upon him by his beloved constituency of old Pike, or the later ones which he held in obedience to the will of the people of the City of St. Louis and of the chief magistrate of the nation.

But why talk about what he might have been when we know what he was. He could have held no offices, however high, but his strong and striking individuality and his impressive personality would have overshadowed them all. I doubt whether our people could ever have habituated themselves to calling him by an official title, at least out of his presence when unconstrained by conventionalities. It always seemed to me that they were hardly willing to add the Southern and Western prefixes, Colonel or Judge. To them as to us he was always Broadhead.

We love to dwell upon him as a lawyer, for that was his life vocation, yet we cannot disguise the fact that Broadhead the man, to some extent obscured Broadhead the lawyer. It was not in his nature to be a strict specialist. His active business life was largely passed as an advocate in the domain of the

courts, amid contending clients, or as a counselor in his office settling disputes and advising as to rights and liabilities. There were periods when he lived and acted within the domain of statesmanship. At all times he took a deep interest in all things which concerned humanity. Whatever he did was done so easily that he did not seem to labor. His weakness, if any, as a lawyer, was his indifference to details. This resulted largely from his ability to apply general principles and to solve questions upon necessarily undisputed facts. His power of generalization was marvelous. Gen. Henderson once told me, speaking of the time when he and Broadhead were rival practitioners at the Pike County Bar, that early in the contest he had to give up all hope of ever surprising or beating Broadhead upon questions of law, and that when he was so fortunate as to prevail in a law suit he could always trace back the result to his own careful preparation of the facts of the case and the absence of that preparation on Broadhead's part.

I have been told that Samuel T. Glover, when once asked his estimate of Broadhead, replied in his sententious way: "A great lawyer; a great man. A very great lawyer; a very great man—when awake."

There was nothing about Broadhead that so much impressed others as what might be called his reserve power, which he possessed in a marked degree, as did Webster.

Broadhead always took an active interest in public and political questions. He belonged in his early life to the old Whig party, and his attachment to it was so strong that I very much doubt whether he would ever have bolted its platform or its nominees. He was not as federalistic in his views as Marshall or Hamilton. He was not as radically democratic as Jefferson nor as fiercely democratic as Jackson. His views were rather the composite of those of Madison and Webster.

He was the antipodes of Calhoun. As a son of Virginia, he was not wanting in filial devotion, yet he believed so strongly in an indestructible union of indestructible States that had he lived there in 1861 he would not have believed with Gen. Robert E. Lee that his first allegiance was to his State. He profoundly believed in the wisdom of the results which followed debate and contention in the courts, in constitutional conventions and in legislative bodies. He did not have the highest confidence in the conclusions of a primary, a caucus or a political convention. As a Senator of Rome in its palmiest days he would largely have influenced and controlled the policy of the Republic, yet I doubt whether he could have moulded to his will the fierce democracy of Athens. He had great respect for the verdict of the people at the polls. His theory evidently was to respect conclusions arrived at after both sides had been heard. He was not quite an optimist, not a pessimist, nor was he an opportunist, he was the embodiment of conservatism. He rather grew restive under the restraint of party rule, and "independence was one of his fluttering plumes."

He could not bring himself to believe as strongly as some do that for a strong man with the capacity for political leadership unvarying allegiance to the party nearest representing his views is, in a Republic like ours, the most practical way to promote the country's welfare.

It is not for me to speak of his domestic relations; as a son, brother, husband, father, he was nearly ideal, and to his kinsmen, to the remotest degree he was not unlike a massive live oak, with capacious branches sheltering and protecting them from heat and storm.

Wherever Broadhead was there was sunshine, not clouds. What shall I say of his good comradeship? Or shall I trespass on those grounds? What of the Attic hours? When

surrounded by his familiars and his friends, how did he bear himself? Not like Dr. Johnson, the rugged old bear who made famous the London taverns by doing all the talking, and doing it so marvelously well. On such occasions Broadhead was not a raging conflagration, but rather the gentle and healthy glow of the hospitable fireside. He did not, like poor Yorick, "pour a pint of Rhenish on your head;" nor was his the wild, rollicking fun of Dickens or Eugene Field, but rather the genial humor and abounding pleasantries of Thackeray and Irving. Rich in literary attainments, full of poetry and sentiment, overflowing with classic and historic lore; there never was a more charming companion. That it was a positive pleasure for him to receive the strokes of humor, and the shafts of wit and sarcasm and badinage from his friends rather than to strike the blow or draw the bow himself could have been attested by the Knapps, Lindley and Hyde, and can be confirmed by Henderson, Vest, Philips, Dyer, Henry, Prather, Francis, Priest, Ellerbe, Frost, and others.

Broadhead had a deeply religious nature, and it was only needed to have heard him reverently speak the words (as he often did) "Divine Justice," "Divine Master," or "the Savior of the world," or "the providence of God" to find out this attribute of his character. He devoutly believed in "the fatherhood of God and the brotherhood of man."

His life was no failure but a crowning success. He lived nearly four score years. He was ever blessed with a "sound mind in a sound body." He held communion with the good, the strong, the wise and with the brave, the tender, the true, and with the poor and the unfortunate of his generations, and by much reading with those of former times and distant countries. Compare him with his contemporaries, old or young, those gone before or left behind, and who was superior to him?

In whom were all the elements so blended? And of those left who towers above him?

Let me reiterate in estimating him we must not fall into the error of comparing him with himself.

His simplicity was such that a child might lead him, yet his courage such the strongest could not daunt him. When aroused he had much of the lion in him ; none of the fox or the wolf. His life was mostly bright, and such sorrows as touched him he met in philosophic spirit and with Christian fortitude and resignation. No one ever had a sunnier disposition. His goodly face was a benediction. Calmly and joyfully he pursued the even tenor of his way, yet, at all times, as Tennyson said of Wellington, "as the greatest only are, in his simplicity sublime."

He was not unlike the Mississippi on whose banks he dwelt, and which moves steadily on, sometimes at a lower and sometimes a higher stage, anon bursting its bounds and fertilizing all it touches, then returning to its channel continues its majestic march to the sea.

He gloried in nature, its mountains, lakes, plains, rivers, oceans and the overarching firmament. He found "tongues in trees, books in running brooks ; sermons in stones and good in everything."

When the history of the times in which he lived shall come to be written by the impartial historian it will be found that Broadhead left a permanent imprint, and his services to the American bench and bar will be recounted ; and it will appear that he had very much to do in moulding our laws, constitutional, legislative and judicial, and shaping the destiny of our great Commonwealth and materially contributed to the preservation of our Union of States.

As I stand in this presence at the conclusion of my brief part in this ceremonial and think of my dear departed friend, the pathetic words of Hamlet crowd upon me :

“ He was a man, take him for all in all,
I shall not look upon his like again.”

Yet I am consoled, as we all must be, that his going was in the order of nature ; not an untimely taking off. The harvest time came and he was found “ in the sere and yellow leaf,” and gathered to his fathers. His great soul has returned to its Maker. His memory we retain as among our most precious treasures, and the collective estimate of the St. Louis Bar is expressed in the memorial which now I commit to the care of the court.



RESPONSE OF JUDGE E. B. ADAMS.

♦♦ | IT IS with profound emotion that I have listened to the very excellent and just eulogy which you have pronounced in presenting the memorial of the St. Louis Bar, upon the life and character of our departed brother and friend.

This court, in times past when brother Broadhead was at the zenith of his power and usefulness, was his favorite tribunal. His voice was often here raised in the cause of justice. Many of his most brilliant successes were here achieved and the files and records of this court stand as permanent and enduring monuments to his great learning and ability. While, since my personal incumbency of this office, his foreign residence and enfeebled health have prevented his frequent appearance here, I know from my general familiarity with the history of this court, as well as from the uniform testimony of my distinguished predecessors, that no man of all the illustrious members of this bar, past or present, has ever impressed the court with more confidence in his integrity, ability or learning, than brother Broadhead.

His methods were always simple, direct and honest, and therefore of necessity powerful and effective. His habit was to deal with and invoke the great underlying principles of right and justice, with whom no man of my acquaintance possessed a keener and more accurate appreciation. As a result of such methods, supplemented by reinforcing authority with which he was also very familiar, his arguments were always strong and

cogent and his conclusions driven home with great clearness and power. He was a great lawyer, known and appreciated not only at this, his home bar, but throughout the length and breadth of the land.

He was an ornament to his chosen profession, and as a member of this bar, a great honor to this court.

With sadness and grief for his departure I consent to the inevitable necessity, while permitting the records of this court to memorialize his life, to permit them also to announce and record his death.



ADDRESS OF HON. G. A. FINKELNBURG IN
PRESENTING THE MEMORIAL OF THE
ST. LOUIS BAR TO THE UNITED
STATES COURT OF APPEALS.

JANUARY 9, 1899.

IF YOUR HONORS PLEASE :

SOMETIME ago the members of the St. Louis Bar met and took action on the death of Col. James O. Broadhead, and I have been requested to present to this Honorable Court a memorial on the deceased, adopted by that meeting, and to ask that it may be incorporated in the records of this court.

The brotherhood of lawyers always assembles with feelings of sincere regret when an esteemed member has passed beyond the living association ; but in this instance there has been a marked disposition to linger longer than usual over the reminiscences of the departed brother and to emphasize the loss — the great loss — which our bar has sustained.

In the death of James Overton Broadhead the country has lost one of those highly gifted lawyers who have given strength, character and influence to the American bar during the last fifty years, and a lawyer whose intellectual activity extended far beyond the limits of the ordinary professional practice into the broader fields of constitutional and international law, statesmanship and foreign relations. He was a man of extraordinary capacity.

Two things are necessary to make a marked career : natural endowments and occasions to call them forth. There were several events in the life of Col. Broadhead which gave direction and impetus to his natural abilities. He was a member of two Constitutional Conventions in this State. This experience, together with a remarkable adaptation to the consideration of broad fundamental questions which he grasped and handled with masterly vigor and discernment, brought him into great prominence as a constitutional lawyer, so that his opinions and arguments on constitutional and kindred questions of public law become a prominent feature in the judicial history of our State.

Col. Broadhead was twice appointed to positions of a diplomatic nature in which questions of international law became the object of his attention, and here again he demonstrated his ability to grasp and apply the rules which pertain to this higher branch of jurisprudence, rules which are said to draw their inspiration directly from the law of nature.

During the late Civil war Col. Broadhead was one of the chief advisers of the Federal Government in all affairs pertaining to the military occupation and government of Missouri ; in this position, as well as in his subsequent career in Congress, his course was of that enlightened, firm but conservative character which mark the conduct of a statesman.

In all these spheres Col. Broadhead rose far above the common level of human capacity, judgment and foresight ; but after all I think it was in the court room that he was strongest, and it was when thoroughly aroused in a case of importance that his oral arguments were so convincing in their reasoning and so forcible in their expression as to remind one of the great names which have graced forensic oratory in the history of the English and American bar.

It is undoubtedly true, as the memorial says, that much of his professional success was due to the fact that every tribunal before which he appeared became immediately impressed with his perfect candor and honesty ; that his face, his manner, his whole bearing throughout the case carried conviction of a purpose to present the issues with absolute fairness, and because he believed in the words used by himself in a public address that, " No man without an upright mind, and no man who has not preserved his integrity, has ever died leaving the reputation of a great lawyer."

As a lawyer and a citizen Col. Broadhead was a tower of strength ; as a man he was kind and gentle, full of generous sympathy and open-handed almost to a fault. It is said that no one in distress ever appealed to him in vain. Take him all in all he represented the noblest type of American manhood.

And now that he has departed for the unknown and silent shore we, his brother lawyers, feel like calling after him, Adieu ! dear friend, you have nobly done your part, and we who survive you will keep your memory alive as long as life is accorded to us.

I am sure that your Honors upon the bench are in accord with the members of the St. Louis Bar in the sentiments expressed in their memorial which has been printed and which your Honors have seen, and in view of the extensive practice which the deceased had in the Federal courts I now ask that this memorial may by your order be spread upon the records of this court.

RESPONSE OF MR. JUSTICE THAYER.

THE memorial of the bar concerning Colonel Broadhead (supplemented by your own remarks, Mr. Finkelnburg) depicts with great fidelity and rare discrimination those qualities of mind and heart which, for more than thirty years, maintained the deceased in the front rank of the profession in this city and State, and endeared him, not only to his associates at the bar, but to a multitude of friends outside of the profession. It rarely happens that a death occurs in any community which affects so many persons with a sense of personal loss as the death of Colonel Broadhead. He was a man of great intellectual vigor and capacity, but it required some occasion or circumstance which stirred his emotions to call his best powers into action. As a lawyer he took little interest in the ordinary controversies between individuals, such as daily occur in the courts, and at times his lack of zeal seemed to be neglectful of the interests of his client. On such occasions his attitude before the court was one of apparent regret that rational human beings would indulge in a dispute about trifles ; but if his feelings were aroused by any act of wrong or oppression, or if the controversy touched any of the more fundamental principles of the law on which human rights or political institutions are founded—the listless attorney at once became the zealous, profound and able advocate.

Colonel Broadhead's tastes, as has been truly suggested, led him naturally into the domain of constitutional and international law, and to the study of many questions of a political and economic character which do not always engage the attention of active practitioners. All subjects which in any way affected the welfare of states or communities interested him far more than the transient concerns of individuals. In his early

life he had breathed an atmosphere which inspired him with a deep interest in public affairs, and with a strong love of free institutions, and throughout his long career at the bar he studied with an interest that never flagged, the origin and evolution of those constitutional guaranties on which the rights of the individual and the welfare of states, in the main, depend. Although he lived during the period when the commercial spirit of the present day seems to have had its origin, and was widely prevalent among all classes and professions, yet he never caught the infection and was singularly free from its influence. He devoted much time and talent to the study of public questions and to the accomplishment of public objects, which a more worldly-minded person would have devoted to the betterment of his private fortune. He found no pleasure and apparently took no interest in the pursuit of wealth.

Colonel Broadhead was a man of great mental honesty. He seemed to be incapable of practicing any deception upon himself or others. In the course of more than twenty years of intimate acquaintance with him at the bar, I never heard him attempt to distort a legal principle, or to justify an act which an enlightened conscience would not approve. Neither the dictates of self-interest nor attachment to party ever swerved Colonel Broadhead a hair's breadth from that line of conduct which his conscience and judgment approved. He believed, and always acted in accordance with the belief, that it was better to be right than to be successful, and that the political fortunes of an individual were of no concern to the public, and of little importance to himself.

He had great influence with all courts before which he was a practitioner, and the main element of his strength lay in the confidence which he inspired that the controlling issues of the case would be clearly and accurately stated ; that the law

would be expounded as he believed it to be ; that he would indulge in no sophistry or casuistry, and would dig no pitfalls, either for the court or for his adversary.

Colonel Broadhead was a man who harbored no animosities and treasured up no resentments against his fellow-men. The natural impulses of his heart led him to take a charitable view and to be a lenient judge of the faults and mistakes of others. True to the instincts of a generous nature, when the Civil war ended, in which he had borne an honorable part, he pleaded with great earnestness against many of the proposed measures of the Reconstruction Period, which he believed to be arbitrary and ill advised ; for the restoration to the Union of the Southern States, with all of their political rights, and for a general amnesty for all political offenses.

Allusion has been made in the memorial, and without it the picture would have been incomplete, to the lovable personal qualities of the man—to the simplicity of his character ; to the artlessness of his disposition which suspected no guile, and to that indefinable influence, the outgrowth of a kind heart and a generous nature, which inspired all of his associates at the bar with a feeling akin to love and veneration. It is a pleasure to pay a tribute of respect to such a man, and to do what we may to perpetuate his memory. We can admire his intellectual powers, which were far above the average ; we can treasure the recollection of his many kind acts and generous impulses ; and above all, we can point with pride to the great integrity of his character and to the high purpose which inspired his public acts and private conduct. Such men as Colonel Broadhead are an honor to the profession to which they belong, and a blessing to the communities in which their lives have been spent.

It will accordingly be ordered that the Resolutions of the Bar be spread at length upon our records.

ADDRESS OF HENRY HITCHCOCK, ESQ., IN
PRESENTING THE MEMORIAL OF THE
ST. LOUIS BAR TO THE SUPREME
COURT OF MISSOURI.

JANUARY 24, 1899.

MAY IT PLEASE YOUR HONORS :

♦♦ | RESPECTFULLY present to the court, at the request
of my brethren of the bar of the City of St. Louis, a
memorial of the late James Overton Broadhead, who
departed this life in the City of St. Louis, on the seventh day
of August, 1898, soon after completing his seventy-ninth year.

On August ninth, at a largely attended meeting of that
bar, a Committee of Nine was appointed to prepare and report
to an adjourned meeting a suitable tribute to the memory of
one so greatly honored and beloved by his professional brethren.
On November twelfth their report was presented and was
unanimously adopted. I deem it a privilege to submit to your
Honors, on their behalf, this memorial of one who for more
than fifty years was a member of the bar of this court,
distinguished alike by his eminent professional ability and
reputation, and by his exalted personal character.

In fulfilling that duty it is not needful that I should recount
to your Honors in detail the events of that long and honorable
life, or the many and important services which he rendered at
the call of his fellow-citizens of Missouri and of the national
government. The story of that life is briefly but admirably

told in this memorial. Those services are writ large in the public records of this Commonwealth, and of its chief city, whose fundamental and organic laws he largely contributed to frame, and in the chronicles of the nation, as well during those sad and anxious days of civil strife as in later times of reunion, prosperity and peace. And how warmly the memory, not only of his public services, but of the intellectual power, the moral worth and the attractive personal traits of the man, is cherished in the hearts of his fellow-citizens, is attested by the spontaneous tributes in which they have recalled his early struggles, his life-long labors, the learning, ability and virtue which adorned and the honors which rewarded them. Seldom indeed has a more significant and touching tribute been rendered to any man than that which was paid to his memory on the twenty-eighth of November last, at a public meeting of the citizens of Pike County, where his early manhood was passed, his professional career begun and his first public duties undertaken. The forty years which had elapsed since he sought a wider field of usefulness had not sundered those early ties of mutual confidence and affection, and the representatives of two generations joined in honoring one who in ripe manhood and in venerable age had nobly fulfilled the promise of his youth.

This memorial also briefly depicts, in a manner at once felicitous and just, the professional character and career of him whom we lament. Extending unbroken through a period the length of which betokened uncommon vigor of mind and body, preserved by temperate habits and a pure and wholesome life, that career fulfilled the highest conditions of professional distinction and success—integrity, intellectual power, learning and faithfulness to trust. How great and precious were his gifts, with what zeal and fidelity they were employed, I need not remind your Honors, before whom and your predecessors,

during the half-century now drawing to a close, he so often and so ably asserted or defended the rights and liberties of which this supreme tribunal is the guardian under the Constitution.

Admitted to the bar in 1842, Mr. Broadhead's name first appears in this court in 1847, in the tenth volume of the Missouri Reports, and thereafter during more than fifty years, in more than one hundred subsequent volumes, with a frequency approached by very few, and surpassed, I think, by none, of his contemporaries. But it was the quality, not the quantity, of his work which placed him in the front rank of the bar of Missouri and established for him a national reputation. Of the immense variety of cases in which his counsel and advocacy were sought, those were most congenial to his mind, and displayed his powers and resources to the greatest advantage, which involved the discussion of the broad principles of right and justice which are the foundation of the law. For to him the law was not merely an arbitrary rule of conduct, finding its sanction only in superior power. It must justify itself by right reason, else its seat were not "the bosom of God," nor "its voice the harmony of the universe." Instinctively, therefore, he sought for the truth, habitually relying upon that alone for success. And to this singleness of mind, to the integrity, the simplicity, which was the keynote alike of his intellectual efforts and of his personal character, not less than to his ability and learning, his professional eminence and success were due. The clients whom he advised, and the jurors whom he would persuade, felt that they could trust implicitly the sincerity of his purpose and the absolute truthfulness of his statements; and the judge or court whom he would convince, whether concurring or not in his conclusions, equally recognized the uprightness with which, as an officer of the court, he sought to aid it in ascertaining and enforcing the very truth and right.

A notable illustration of this is mentioned in this memorial, as having occurred in the Supreme Court of the United States during an argument by him which involved constitutional questions of the highest moment, but in this presence, the statement I have made requires no confirmation.

In the high estimate placed by his brethren upon Mr. Broadhead's forensic ability and their interesting analysis of his intellectual gifts and mental habits, I feel sure that your Honors will concur. I believe it to be true that the members of no profession are habitually judged by their fellows with greater accuracy than those of our own—and equally true that in none are favorable judgments more cordially rendered, or the supremacy of its leaders more willingly acknowledged. But to him the loving tribute of our admiration was paid with a peculiar pleasure. For, while his integrity, his learning, his forensic power and skill commanded our highest respect, in him were singularly blended the qualities of strength and gentleness, of unselfish purpose, absolutely fearless fidelity to his own convictions and a quick and intelligent sympathy for those of others.

Nor is this the testimony of those alone for whom I now speak. I take pleasure in adding to it that of a former honored member of this court, now occupying for the third time the Circuit bench of Jackson County, whose wide and intimate acquaintance with the bar of the entire State during fifty years past gives to it a peculiar value.

From the extremely interesting "Personal Recollections" contributed by Judge Henry to the history of the Bench and Bar of Missouri, published within the past year, I quote the following mention of Colonel Broadhead, as one of the acknowledged leaders of the bar, based upon an acquaintance begun in 1847 :

"Broadhead was then a young man, rapidly reaching the front rank of lawyers, and leaving Pike County he located in St. Louis, where very soon he was recognized as one of the ablest lawyers at that bar. He is a man of remarkable intellect, and the ablest arguments I ever heard as Judge of the Supreme Court were made by Colonel Broadhead. He is not only learned in the law, but is a scholarly, cultured man, without a particle of pedantry, and one of the most guileless mortals I ever knew. He has no malice or envy in his composition and has a heart full of kindness for mankind."

To that history Colonel Broadhead also contributed interesting reminiscences of half a century, not only giving due honor to the giants of earlier days, but sketching with kindly and characteristic humor the unconventional conditions of practice in the country circuit in which his professional life began. Others whose reputation, like his own, afterwards reached its zenith at the St. Louis Bar—such as Gamble, Bates, Glover, Uriel Wright, Richardson, and others—also received their earlier training on country circuits, and doubtless meditated their first causes while journeying on horseback over the broad prairies and through the silent woods of which he speaks. Such training, rough but genial, could not fail to test and strengthen from day to day their mental thews and sinews. It called forth in sudden conflict, with scant preparation, all their resources of knowledge and native wit, and compelled them to profounder study of legal principles, the knowledge and application of which distinguishes the jurist from the case lawyer.

And such training fitly supplemented the associations and traditions of Colonel Broadhead's youth, as related in Mr. Kent's admirable address at the commemorative meeting already mentioned. Born in 1819, in Charlottesville, Virginia, at a time when many of those who founded the Republic were

still living, in a community where a number of them resided, and in part educated at its renowned University, among his earliest recollections were the venerable figures of Thomas Jefferson, of James Madison, "The Father of the Constitution," whom he often met and talked with, of James Monroe, and their friends and associates of earlier days. Imbibing from such men the traditions of patriotism, philosophy and learning exemplified in their illustrious lives, his own ideals and aims in life were worthy of their source. We know with what fidelity he maintained those ideals, with what distinction and success he pursued those aims. But while we honor him both as a great lawyer and as a patriotic citizen and servant of the State, his brethren of the bar honor him most of all in that his professional career embodied and exemplified the truth which this memorial repeats in his own words :

"No man without an upright mind, no man who has not preserved his integrity, has ever died leaving the reputation of a great lawyer."

RESPONSE OF CHIEF JUSTICE GANTT.

THE CHIEF JUSTICE RESPONDED AS FOLLOWS :

THE Court most cordially responds to the sentiments of affection and admiration for our deceased brother contained in the memorial of the bar, and esteems it a great privilege to spread upon the records of this court this last testimonial of those who knew and loved Col. Broadhead so well.

It has been the lot of few men to impress the history of their times with their own individuality to a greater extent than he has upon Missouri. The memorial is most fitting in that it justly discriminates in its estimate of the great characteristics of the man. Little can be added to what is said in the memorial. This is not the time or place for a review of his great achievements in public affairs.

It is proper to say that in this forum he shone as the great lawyer and achieved many signal triumphs and won and maintained at all times the respect and admiration of the court and his brethren at the bar.

We fully concur in the sentiments of the memorial and thank you, Mr. Hitchcock, for the eloquent words in which you have performed this sad duty for one of your contemporaries.

To the young men of my generation the memory of the kindly words, the genial countenance of Col. Broadhead will always remain a benison, and we will ever cherish his memory as the friend of the young lawyers. To the members of the country bar of Missouri it is and will always be a source of

pride that he laid the foundation of his great career, as a country lawyer, and we will always claim a share in his fame.

The great ability of Col. Broadhead, his splendid attainments, his loyalty to his profession, and his fidelity to duty make it eminently appropriate that a fitting memorial of his services to the State and to this court should be permanently inscribed upon our records, and it is accordingly ordered that the memorial and your remarks, Mr. Hitchcock, be spread at large upon the records of this day's proceedings.



ADDRESS OF HON. CHESTER H. KRUM IN
PRESENTING THE MEMORIAL OF THE
ST. LOUIS BAR TO THE CIRCUIT
COURT OF THE CITY OF
ST. LOUIS.

THE indulgence of your bar has commissioned me to present to your Honors their tribute to the memory of James O. Broadhead. Words of mine cannot add to, or make more appropriate, the heartfelt eulogium which this tribute evidences. It is the peaceful ending of a long life, which this memorial commemorates—a life not alone instructive, by way of precept and example, but one of honorable service to the nation, of marked significance to the State, and of kindly relations and honest dealings of him who lived it, with his fellow-men. The life, so fully rounded out with plenitude of years, tells of a youth of sturdy qualities, which gave promise of good performance in days to come; of an early manhood of studious, honest progress towards the realization of the promises of youth; of a beginner in the law to whom straightforwardness in methods and purposes was no less a guiding necessity than even the building of a noble, impressive structure of learning, upon the broad, substantial foundation of the principles of the law; of an experienced practitioner of his profession, perhaps not as alert or keen as some, in the ordinary acceptance of legal skill, but profound, masterly, direct and sincere; of an expounder of the Constitutions of the nation and the State, of renown co-extensive with the Union, and the peer of any lawyer at any American bar; of an active

participant in the public affairs of the State and the nation ; of a statesman who was a patriot when his country called in hours of urgent need, who was true to the mandates of the Constitution, and was the open, unrelenting foe of all party subterfuges intended to mislead, where they professed to better the people, and who, though honorably ambitious, would have passed his days in mere private citizenship rather than advance one step towards office as the consequence of guile, treachery, false pretense or dishonorable political artifice.

The life, thus rounded out, tells even more. Not merely were honest methods followed fearlessly and openly, at the bar and in private and in public life, but there went with that honesty and directness in purpose and in act, true simplicity and want of presumption in thought and in manner ; a kind, manly consideration for the opinions of others ; an open-hearted fondness for the promptings of friendship ; the most unchangeable and ever abiding charity ; a pronounced fearlessness in the exposure of chicanery and corruption, in private life or public office, and an unfaltering observance of truth and straightforwardness in all of his dealings with his fellow-men ; so that not merely in the sum and substance of his daily life was it gentle, but the elements were so divinely mixed in him, that nature might stand up and say to all the world, " This was a man."

Yet, your Honors, though it may be greatly wise to talk with these past hours, " And ask them what report they bore to Heaven," how soon will it be, that the life of this Master, at whose feet we sat, will have lost its force even by way of example?

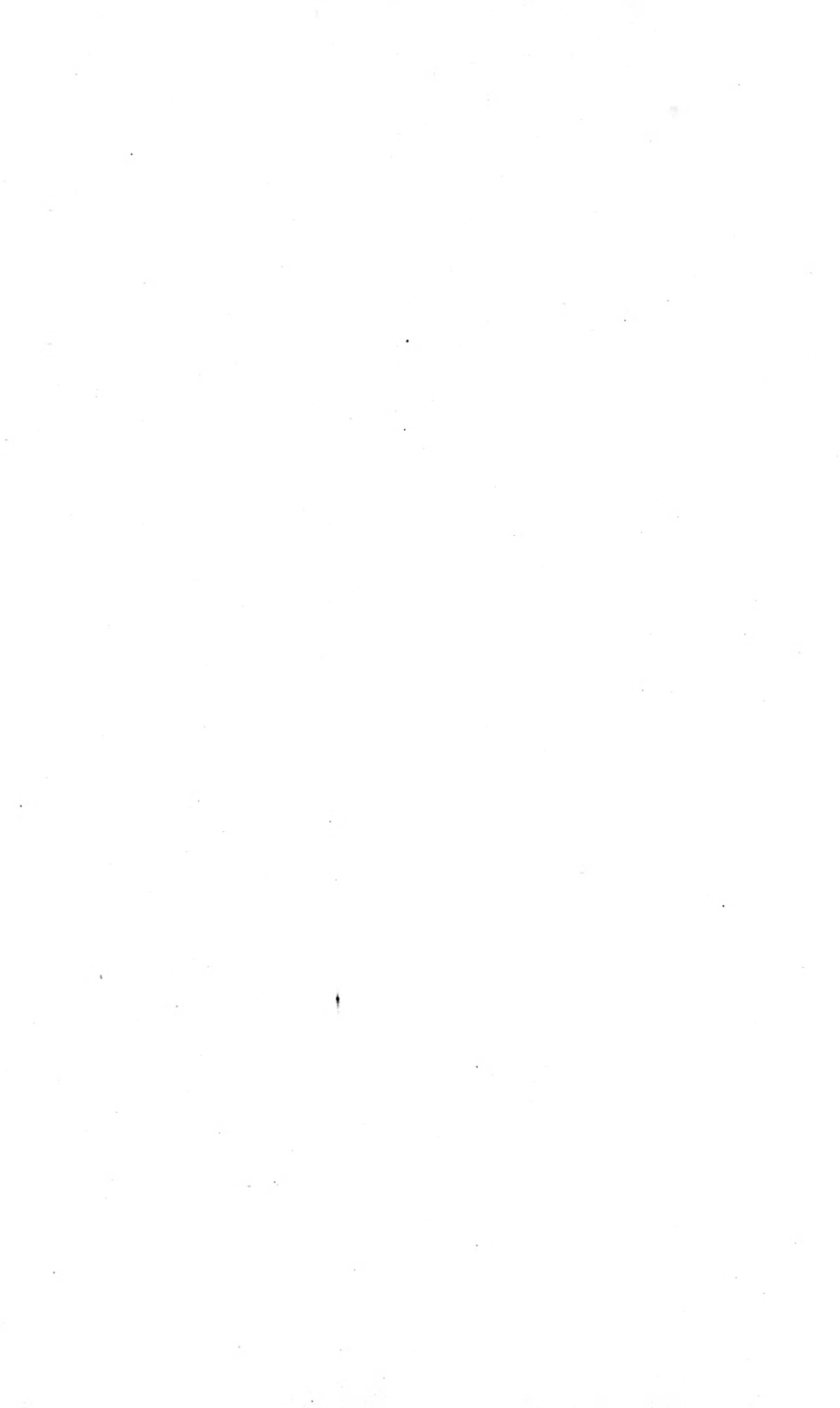
Lawyers, sirs, live, labor and for the most part are soon forgotten. After them, though they come to their end in the ripeness of years and experience, what profit their quillets, their cases and their tenures? They may have apparently

carried their names full high advanced into the temple of fame ; contemporaries may wonderingly hope — *forsitan et nostrum nomen miscebitur istis*—yet the fame is mostly evanescent—the present sets its own limitations, and in days to come, the very Nestors of the bar are often lost in the countless multitude of those who are forgotten.

Yet, whatever all this may be, in general, may I not be indulged in the hope that even in the distant future, upon some appropriate commemorative day, the honorable deeds and exemplary qualities of him whom Missouri now immediately mourns, but whom the nation no less honors, will be recalled, even as Choate invoked the past to give again to him the never-to-be-forgotten Webster — for the resplendent greatness of the Son of New Hampshire does not so far outshine the massive, robust mentality of the Son of Virginia.

“Such a character,” said he, “was made to be loved. It was loved. Those who knew and saw it in its hour of calm, loved him. His plain neighbors loved him. Educated young men loved him. The ministers of the gospel, the general intelligence of the country, the masses afar off loved him. Every year they came nearer and nearer to him, and, as they came nearer, they loved him better ; they heard how tender the son had been, the husband, the brother, the father, the friend and neighbor ; that he was plain, simple, natural, generous, hospitable—the heart larger than the brain ; that he loved little children and revered God, the Scriptures, the Sabbath Day, the Constitution and the law—and their hearts clave unto him.”

I move, your Honors, that the Memorial of the Bar be spread upon the records of this court—that he who has thus gone before, may be named henceforth softly, as the household name of one whom God hath taken.



MEMORIAL OF THE LOYAL LEGION.

DECEMBER 3, 1898.

▲▲ | N the death of James Overton Broadhead the members of this Commandery mourn not only the loss of a companion, than whom none was more honored and beloved, but also, in common with the people of this State, of a citizen whose long life was distinguished by conspicuous and exceptionally important public service.

Born in Charlottesville, Albemarle County, Virginia, on May 29, 1819, he removed to Missouri at the age of eighteen, after having spent a year at the University at Virginia. During the next three years he was employed as tutor in the family of Edward Bates, afterwards Attorney General under President Lincoln, also reading law under the guidance of that eminent lawyer, and forming a mutual friendship which lasted through life. In 1842 he was admitted to the Bar of Pike County, Missouri, where he settled, and for seventeen years pursued the practice of his profession with constantly increasing success. How rapidly he gained, how securely he held the public confidence and esteem, was shown by his election, in 1845, to the State Constitutional Convention held in that year ; in 1847 to the House of Representatives from Pike County ; and to the State Senate in 1851. In 1859 he removed to St. Louis, entering upon a larger field, and continuing a professional career which soon won for him a national reputation. Thereafter he resided in St. Louis until his death, on August 7, 1898, shortly

after the close of his seventy-ninth year. During that period, in addition to the labors of his profession, he was repeatedly called upon to fulfill important public trusts. His eminent ability, and the marked success and distinction which attended alike his professional and his public career, have been fitly commemorated, not only in the loving and reverent memorial adopted by his brethren of the St. Louis Bar, but in the impressive and remarkable tribute to his memory by a large and representative meeting of the bar and citizens of Pike County held at Bowling Green, Missouri, on the 28th of November last. It is for us especially to recall the military and other public services he rendered in connection with the Civil war.

The members of this Commandery whose home was in St. Louis when that conflict began, still vividly remember the intensely excited feeling and the swift and stirring events which attended its outbreak. Missouri, perhaps more than any other of the so-called border States, was rent by the passions it aroused. It was like an isthmus upon and over which fiercely beat the angry tides of opposing oceans, each lashing the other into greater fury.

The secession of South Carolina in December, 1860, and of Mississippi, Florida, Georgia, Louisiana and Texas, by the first of February, 1861, had its intended effect, in the phrase of that day, to "fire the Southern heart." On January 21st the Missouri Legislature passed an Act calling a State Convention, designed, as all men know, to force similar action upon the people of Missouri, though its declared purpose was the adoption of such measures as the convention might deem to be demanded for the protection of the State and the vindication of its institutions. A few months later, this purposely unlimited grant of the sovereign power of the State proved fatal to the plans of its authors.

That St. Louis was not a secession city was soon demonstrated by the majority of six thousand votes by which, at the election for the convention held on February 18th, the fifteen delegates on the Unconditional Union Ticket, of whom James O. Broadhead was one, defeated their opponents on the so-called Constitutional Union Ticket. Nor did any candidate throughout the State venture openly to advocate secession. But so openly defiant were the secessionists and so imminent the danger to the public peace that in February, under the leadership of Frank P. Blair, it was determined to meet force with force, and steps were taken to organize with arms for the protection of the Union men. At the head of this movement was placed a Committee of Safety, composed of Oliver D. Filley, then Mayor of St. Louis, as chairman, James O. Broadhead, who was appointed secretary, Samuel T. Glover, John How and J. J. Witzig. This committee, in co-operation with the military authorities, rendered invaluable services. By an order issued April 30, 1861, by the Adjutant General of the United States Army, upon which was endorsed the written approval of President Lincoln and General Scott, General Nathaniel Lyon, then commanding at St. Louis, was required to consult with this committee in reference to the proclamation of martial law, and it was after consultation with them that General Lyon took the decisive step of capturing Camp Jackson on May 10, 1861, thereby securing the safety of the St. Louis arsenal and shattering whatever hopes the Confederate authorities may have cherished of gaining possession of the city.

The State Convention assembled at Jefferson City on February 28, 1861, immediately adjourning to St. Louis, where it sat until March 22nd, then adjourning, subject to the call of a special committee. Of that body, perhaps the ablest and most truly representative that ever assembled in this State, and

which for more than two years exercised the sovereign power of the State with courage, wisdom and moderation, Mr. Broadhead was one of the most influential members, at all times strongly advocating fearless and decisive action. At its second session, in July, 1861, as chairman of a special committee appointed to report what steps the convention ought to take under the grave conditions then existing, he reported and powerfully advocated the ordinance vacating the offices of Governor, Lieutenant Governor, Secretary of State and members of the General Assembly. It was adopted, as were all important acts of the convention, by a clear majority of the members elect; and a provisional State Government was at once established by that body, of which Hamilton R. Gamble, eminent as a jurist, and formerly Chief Justice of the State, was the head.

In May, 1861, the United States Reserve Corps, composed of a brigade of five regiments of Missouri three months volunteers, was organized by order of General Lyon under the order of April 30, already mentioned. Captain T. W. Sweeney, of the Second United States Infantry, was assigned to its command as Brigadier General of Volunteers, and Mr. Broadhead was appointed on his staff as Brigade Quartermaster with the rank of Major. He acted for some time in that capacity, though never regularly mustered into the service as such.

In the same year he was appointed United States District Attorney, and rendered highly important service to the government in unmasking the plans of the deposed secessionist Governor Jackson and his associates. During that year martial law was declared in Missouri, and in June, 1863, Colonel Broadhead, having resigned the office of District Attorney, was commissioned Lieutenant Colonel of the Third Cavalry, Missouri State Militia, and assigned to the staff of Major General John

M. Schofield, then in command of the Department of Missouri, by whom he was appointed Provost Marshal General of that Department, which embraced Missouri, Arkansas, Kansas, the Indian Territory and the southern part of Iowa. He fulfilled the duties of that office until February 6, 1864, when his military services terminated. The mingled firmness and gentleness with which he exercised its powers in the interest of public order and safety is gratefully remembered and acknowledged by those whom, in those troubled times, he found it necessary to restrain.

After the Civil war he resumed the practice of his profession in St. Louis, with increased reputation and success, appearing in numerous cases of great importance in both State and Federal Courts, and remained in more or less active practice until near the close of his long and useful life. In 1875 he served as a delegate to the convention which framed and submitted the present Constitution of Missouri, of which body he was one of the most prominent and influential members. In 1876 he was retained as special counsel for the United States in the famous prosecution which broke up the so-called "Whiskey Ring." In 1878 he was elected President of the American Bar Association.

In 1882 he was elected to Congress from St. Louis, and served with distinction on the Judiciary Committee of the House during his term, declining a renomination. In 1885 President Cleveland appointed him Special Commissioner to make examination with reference to French Spoilation Claims, and in that capacity he spent several months in France examining the government archives, and upon his report Congress took the first action towards providing for the payment of these claims, which had been unsuccessfully urged upon it for nearly a century.

In April, 1893, he was appointed by President Cleveland United States Minister to Switzerland, which office he resigned in November, 1895, and upon his return to St. Louis accepted the professorship of International Law in the Law Department of Washington University, fulfilling its duties until his health failed within the past year.

The closing years of his life were peacefully spent at his home in St. Louis, in the bosom of a devoted family, and were abundantly blessed by—

“That which should accompany old age,
As honor, love, obedience, troops of friends.”

His departure from the scene of his earthly labors called forth throughout this commonwealth a universal tribute, such as few men receive, of regretful and affectionate admiration.

In that heartfelt tribute the members of this Commandery unite, recalling and honoring the public services he rendered and the noble qualities he displayed in those times that tried men's souls—the courage which no danger could daunt, the intellectual power which commanded respect and achieved well merited distinction, the lofty patriotism and the high sense of duty which controlled his actions, all of them adorned by a gentle and childlike simplicity of character and demeanor which made him universally beloved.

HENRY HITCHCOCK,
WELLS H. BLODGETT,
D. P. DYER.

MEMORIAL OF THE VIRGINIA SOCIETY.

DECEMBER 13, 1898.

AT a meeting of the Virginia Society on Tuesday evening, December 13, 1898, the following memorial was adopted, and the secretary was requested to send a copy of the same to Mrs. Broadhead.

On August 7, 1898, the Hon. James O. Broadhead, the first president of the Society, departed this life. In appropriate forums his career as a great lawyer and statesman has been faithfully and eloquently portrayed. We desire briefly to refer to his life as it touched us.

He was the foremost Virginian living in Missouri at the time of his death. He had inherited and throughout his life he stood for the best traditions of his native State. Born in the county of Albemarle, in 1819, he had seen and talked with some of the great Virginians who founded the Republic. Breathing an atmosphere laden with the influence of their lives, he was deeply affected thereby, for patriotism was one of his marked characteristics.

For fifty years he was a conspicuous figure in the political and professional life of Missouri, but though honors came to him thick and fast they never marred the rare simplicity of his character, which gave such a fascination to his personality and made him in all his associations the highest type of the old fashioned Virginia gentleman.

Though always loyal to Missouri and St. Louis, he manifested a deep and never failing love for his native State. The lapse of years and the struggles of a life, busy beyond ordinary capacities, never effaced from his mind the tender memories of youthful friends and scenes. This he feelingly expressed in a speech he delivered at the University of Virginia, in which he said, "And now in conclusion let me say, and you will pardon me for saying it, that this occasion possesses peculiar interest to me, for here in the midst of these historic associations my untravelled heart fondly returns to my native home, where the blue mountains and green fields first met my infant vision. From my far off wanderings in the distant West I come, before the shadows of the evening have closed around me, to renew my devotions to the land that gave me birth." This feeling grew with years, and he was fond of conversing with those who were familiar therewith, about the scenes and history of Virginia. Though of strong, robust character, one who proved himself truly great in momentous issues, vitally affecting the country, he was so sweet tempered, so gentle and even childlike in his nature, that his friends loved to be with him and felt enobled by the association. He was kind, generous to a fault, chivalrous in action "and even in his right hand he carried gentle peace to silence envious tongues." The death of such a man, who for more than half a century was a vital force in the State, is always a severe blow. And we are especially saddened by the reflection that it removes from our midst a type of the statesman and citizen that made Virginia for so many years the dominating spirit of the Union.

A few years more and there will be none to tell us as he could, of the sound of their voices and the look of their faces, for he was one of the last links that bound us to the fathers of the Republic.

The members of this society will cherish his memory as a precious heritage, for his life blossomed with those virtues which have been the best rewards to that noble array of Virginians, whose lives in peace and in war have shed undying lustre upon their country. Great as is our loss it is but small compared with the shadow cast over his home, and to his family we tender our sincere sympathy.



MEMORIAL OF THE AMERICAN BAR ASSOCIATION.

♦♦ | IN the death of Colonel James Overton Broadhead, which occurred at St. Louis, Mo., August 7, 1898, the country has lost one of those highly gifted lawyers who have given strength, character and influence to the American bar during the last fifty years, and a man whose intellectual activity expanded far beyond the limits of the ordinary professional practice into the broader fields of statesmanship, international law and foreign relations. He was a man of extraordinary capacity.

As the first president of this Association it is eminently fit that a brief *resumé* of his career should be preserved in its records.

James Overton Broadhead was born May 29, 1819, in Albemarle County, Virginia, and was educated in the Albemarle High School and the University of Virginia. While he was quite a young man his parents moved to Missouri, where he studied law with Edward Bates, who was afterwards Attorney General under President Lincoln. He was admitted to the bar at Bowling Green, Mo., in 1842, and after practicing in Pike County and northeast Missouri for some years he moved to the City of St. Louis, where he rapidly became identified with the most important litigation of that commercial center. In the course of time Col. Broadhead became in the true sense of the word a leader, not only of the bar of St. Louis, but of the West, and as such he enjoyed a national reputation. During

his professional career Col. Broadhead was a member of two Constitutional Conventions (1845 and 1875). This experience, together with a remarkable adaptation to the consideration of broad fundamental questions which he grasped and handled with masterly vigor and discernment, brought him into great prominence as a constitutional lawyer, and his opinions and arguments on constitutional and kindred questions of public law became a prominent feature in the judicial history of his State. The cases in which he was engaged during his professional career embraced a great variety of subjects, some of them being of national prominence, as for instance, the "Express Company" cases, the "Mormon Church" case, and the famous "Whisky Ring" cases, in which he was retained as special counsel for the government. Strong at all times and in whatever he undertook, it was when thoroughly aroused in a case of importance that his oral arguments were so convincing in their reasoning and so powerful in their expression as to remind one of the great names which have graced forensic oratory in the history of the English and American bar.

It is undoubtedly true that much of his professional success was due to the fact that every tribunal before which he appeared became immediately impressed with his perfect candor and honesty. His face, his manner, his whole bearing throughout the case carried conviction of his single-minded purpose to present the issues with absolute fairness; that he came before the court with profound convictions and with the intention of performing the most exalted function of the lawyer by aiding the court in sifting out the very truth and justice of the matter in dispute.

When the Civil war broke out Col. Broadhead took a prominent and patriotic part in guiding and counseling the civil and military movements in Missouri in the interests of the

Union and in maintaining the authority of the Federal Government. Recognizing his superior judgment and discretion the government appointed him to the responsible position of Provost Marshall General of a department composed of Missouri, southern Iowa, Kansas, Indian Territory and Arkansas. He was also a prominent member of the Committee of Safety which aided in organizing troops for the Union army under special orders from the War Department. At the close of the war Col. Broadhead resumed his law practice. In 1878 he was elected the first President of the American Bar Association. In 1882 he was elected a member of the Forty-eighth Congress, serving with distinction on the Judiciary Committee of the House during his term. In 1885 President Cleveland appointed him Special Commissioner to visit France and to make an examination with reference to the French Spoliation Claims, in pursuance of which duty he spent several months in France examining the government archives, and upon his report Congress took the first action toward making provision for payment to the descendants of those whose claims had been so long ignored. In 1893 President Cleveland showed his appreciation of Col. Broadhead's ability as a statesman and diplomatist by appointing him Minister to Switzerland, a position he held for about three years, when he resigned and returned to St. Louis. During this period he settled a number of intricate questions of international law involving the interests of the United States and citizens thereof. After his return from Switzerland he accepted a call to the Chair of International Law in the St. Louis Law School, for which position his studies and experience while abroad so eminently qualified him, and he occupied that position until his death.

Col. Broadhead was a patriotic citizen, a great lawyer and a lovable man in all the relations of life. He probably had

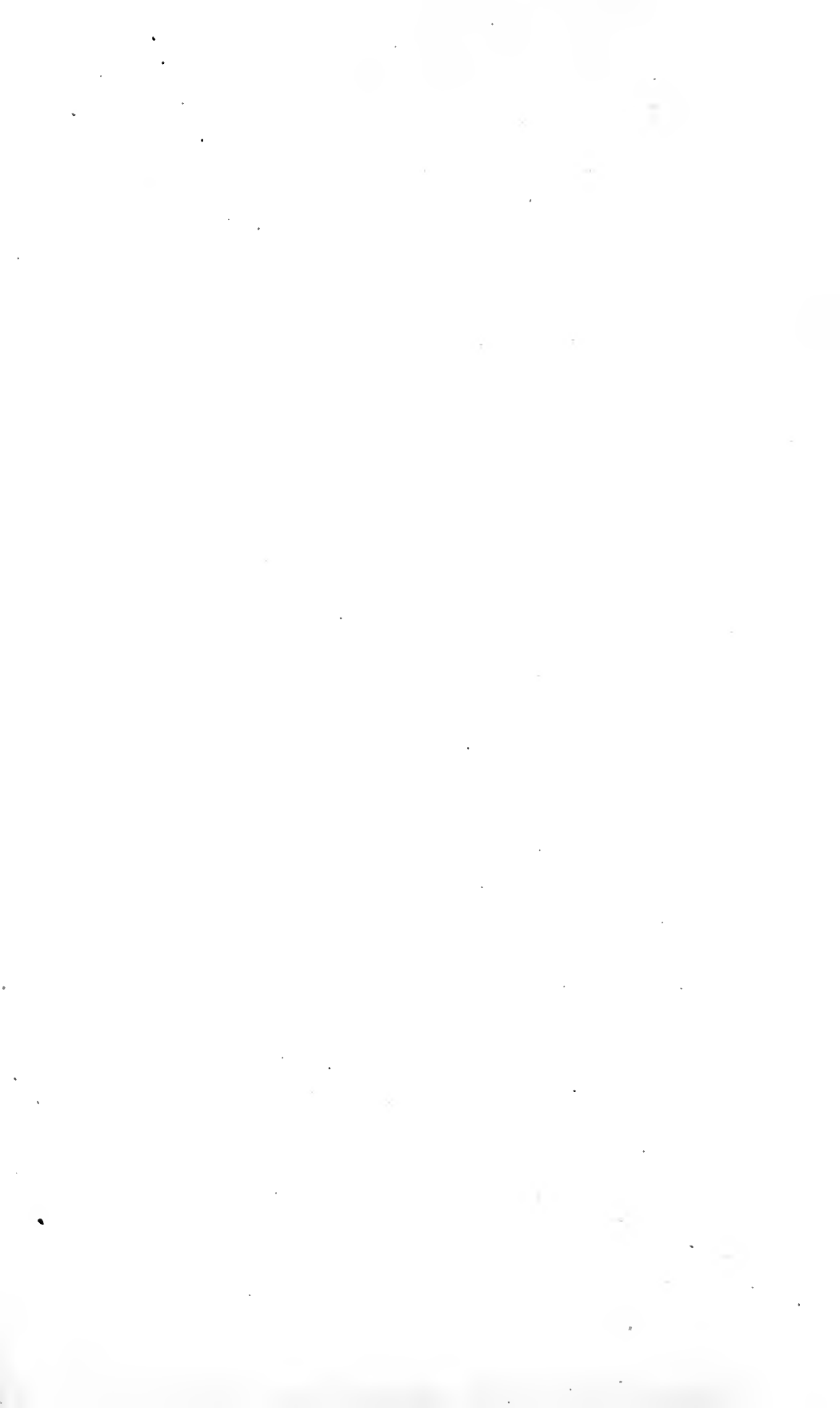
more personal friends, warmly attached to him, than any one public man in his State.

In conclusion, let it be remembered that there is one quality necessary to true worth which Col. James O. Broadhead possessed in an eminent degree, the integrity of character which makes the good citizen and which makes the truly great lawyer, and this brief sketch is best ended by quoting his own words used in a public address, as follows: "No man without an upright mind, and no man who has not preserved his integrity, has ever died leaving the reputation of a great lawyer."

The memorial adopted by the Bar of St. Louis adds the following to the foregoing quotation: "To this standard his own life was adjusted, and the reputation he leaves perfectly illustrates the truth of his maxim."







UNIVERSITY OF CALIFORNIA LIBRARY
Los Angeles

This book is DUE on the last date stamped below.

Form L9—15m-10,'48(B1039)444

THE LIBRARY
UNIVERSITY OF CALIFORNIA
LOS ANGELES

P465 St. Louis,
D73S14 Car -
In Memoriam
James Swanton Broad-
head

UC SOUTHERN REGIONAL LIBRARY FACILITY

D 000 680 495 9

P465
D73S14

